

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5771 of 2017**

- Bhuneshwar Patel S/o Anuj Ram, Aged About 35 Years R/o Sheetla Chowk South Dabrapara Tehsil Patan District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Respondent

MCRC No. 5877 of 2017

- Suraj Sahu S/o Late Bashant Sahu, Aged About 25 Years R/o Dabrapara, North Bhilai-3, Tehsil & District Durg Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate Durg District Durg Chhattisgarh.

---- Respondent

 For Applicants : Shri Avinash Chand Sahu, Advocate
 For Respondent/State : Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

25.9.2017

As both the above mentioned bail applications arise out of same incident and Crime number, both are being heard and disposed of by a common order.

2. There are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.57/2017 registered in Police Station Bhilai-3, Distt. Durg for the offence punishable under Sections 294, 341, 147, 148, 149, 186, 353, 427, 435, 307, 34 of

the Indian Penal Code and under Section 3 of the Prevention of Damages to Public Property Act. 1984.

3. Learned counsel for the applicants submits that applicant Bhuneshwar Patel has been arrested on 21.02.2017 and applicant Suraj Sahu has been arrested on 22.8.2017, after investigation, concerned police has filed charge sheet against total seven accused persons and after their arrest also showing that three co-accused persons are absconding. The matter was initially registered before Judicial Magistrate First Class, Bhilai-3 as Criminal Case No.273/17, thereafter the matter has been committed and presently pending before 4th Additional Sessions Judge, Durg as Session Trial No.120/20178. Co-accused, Nanhe Lal Kaushal, Chote Sahu, Sunil Manikpuri, Raju Verma, Rajesh Dewangan and Yogendra Thakur have already been granted bail by this Court vide order dated 08.8.2017 in MCRC No.4328/17, 4330/17, 4346/17. Case of the present applicants is similar to those co-accused persons who are on bail. Applicant Bhuneshwar Patel was the seventh accused and Suraj Sahu, the absconding accused was subsequently arrested on 22.8.2017. Both the applicants are first offenders. As per the allegation, present applicants along with other co-accused persons blocked the road and when the police party reached to the spot and attempted to clear the road block, the accused persons used obscene words and pelted stones and attempted to set ablaze 3 motor cycles. In the entire incident, the police party was not given opportunity to do their public duty. In the said incident, three

persons were injured out of them Hukum Sahu and Constable Chandrashekhar Chandel received simple injuries and Constable Dinesh Kumar Mandavi sustained injuries over left side of the head. He complained pain. Doctor opined for x-ray. In the x-ray report, no bony injury was reported but on query, the doctor opined that if he was not treated in time, death might have caused, though Constable Dinesh Kumar Mandavi was not admitted. There is no panchnama prepared for the loss caused to three motorcycles, only said 3 motor cycles were mechanically inspected but in the said inspection report value of the damage caused is not mentioned. Both the applicants are first offenders and out of the emotions generated at the spot after the accident they have committed alleged act without any premeditation. They will not commit any offence in future if granted bail.

4. Per contra, learned counsel for the State/respondent opposed the arguments advanced on behalf of the applicants and would submit that looking to the act committed by the applicants as they assaulted the police party who were doing their official duty pelted stone and also caused injury and damages as aforementioned, hence, both the applications may be dismissed.

5. Applicant Bhuvanesh is in custody since seven months and five days and applicant Suraj is in custody since one month and four days, as aforementioned six co-accused persons were already granted bail by this Court, case of the present applicants is similar to those co-accused persons and after considering the detention period, nature of injury and also as no any injured was

admitted in the hospital as indoor patient, damages caused to the motor cycles were not assessed during investigation, I am inclined to grant one opportunity to the applicants so that they will not commit any offence in future and shall remain peaceful in society without committing any offence.

6. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

7. It is directed that the above mentioned applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties each of Rs.25,000/- to the satisfaction of the trial Judge for their appearance before the said Court till disposal of the trial as and when directed by the said Court.

8. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

9. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Bhilai-3, Distt. Durg on **First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason fail to do so, the concerned police may inform the trial Court for the act and if his appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

10. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

11. A copy of this order be placed in the file of MCRC No.5877/2017

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE