

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5912 of 2017

- Mukesh Vibhar @ Raka S/o Bachano Vibhar, Aged About 24 Years, R/o Kaling Nagar, Near Petrol Pump, Police Station Gudiyari, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Gudiyari, District Raipur, Chhattisgarh.

---- Non-applicant

And

MCRC No. 5933 of 2017

- Arif Khan S/o Pappu Khan, Aged About 23 Years, R/o Goverdhan Nagar, Post Office Raipur, Police Station Khamtarai, Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh through the Station House Officer, Police Station Gudhiyari, District Raipur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.P. Sahu, Advocate (in MCRC No.5912/2017)
Shri Shivendu Pandya, Advocate (in MCRC No.5933/2017)
For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

11-10-2017

1. Heard the matter finally.
2. As MCRC No.5912/2017 and MCRC No.5933/2017 arise out of the same crime number and incident, both are being disposed of by this common order.
3. Learned counsel for the applicants would submit that applicant Mukesh Vibhar @ Raka was arrested on 20-07-2017 and applicant Arif Khan was arrested on 04-08-2017 in connection with Crime No.186/2017 by P.S. Gudiyari, District Raipur, Chhattisgarh for the offence under Section 341, 294,

323, 506 Part II, 326, 324, 34 of the IPC and Section 25, 27 of the Arms Act, 1959. After investigation police had filed the charge sheet against both the applicants, which is presently pending before the JMFC Raipur, C.G. as Criminal Case No.6217/2017. Learned counsel for the applicants would further submit that the applicants will not commit any offence in future. As per the allegation, both the applicants by sharing common intention caused grievous injuries to Moh. Shabbir by knife. The said Moh. Shabbir was admitted in the hospital from 15-07-2017 till 20-07-2017, thereafter, no any complication regarding injuries were surfaced. The knife was seized from applicant Mukesh Vibhar @ Raka. The other victim Khalil Khan sustained one lacerated wound simple in nature over right ring finger. It is submitted that against applicant Mukesh Vibhar @ Raka following matters have been registered prior to the incident:-

Sl. No.	Crime No.	Section
01.	19/11	294, 323, 506, 34 of the IPC,
02.	205/15	363, 366, 376 of the IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012.

As the applicant is in custody and as there is no anyone to trace out regarding the fact of Crime No.19/11, no facts regarding Crime No.19/11 may be submitted, but so far as Crime No.205/15 is concerned, it is submitted that correct crime number is 207/15 and in the said matter applicant Mukesh Vibhar @ Raka was granted bail by coordinate Bench of this Court in MCRC No.8213/2016 vide order dated 19-12-2016 as the prosecutrix who subsequently married to the said applicant stated on oath under Section 164 of the Cr.P.C. that she had married with the said applicant and eloped with him of her own and there is no any allegation of sexual intercourse against the said applicant; the said matter is still pending, not concluded. Learned counsel for applicant Mukesh Vibhar @ Raka would further submit that he had submitted copy of the registration of the marriage under the relevant Act issued by the

competent authority to demonstrate that in the said matter the applicant and the prosecutrix ultimately married on 29-08-2015. Learned counsel for both the applicants would further submit that trial may take some time. The applicants may be granted bail during trial.

4. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submit that applicant Mukesh Vibhar @ Raka had not filed any material to demonstrate that Crime No.19/11 is still pending. He would further submit that as applicant Mukesh Vibhar @ Raka has been subsequently arrested in heinous offence and he was granted bail in the said earlier matter and thereafter he had committed the present incident, it goes to show that he had violated the terms and conditions of the bail order and repeatedly committing offence and misusing the liberty granted by the Court of Law. Hence, both the MCRC may be dismissed in the light of the facts surfaced in the matter.

5. Perused the entire material.

6. As applicant Mukesh Vibhar @ Raka is in custody since 2 months and 21 days till date, applicant Arif Khan is in custody since 2 months and 7 days till date, charge sheet has been filed, trial may take some time, there is no any material to demonstrate whether any of the applicants ever convicted by criminal Court, the injured had hospitalized for five days only and thereafter no any facts surfaced in the charge sheet that the injured ever developed any complication after discharge from the hospital, the matter is triable by JMFC and as in the earlier matter though of heinous offence the bail was granted to applicant Mukesh Vibhar and as there is no any criminal antecedent of applicant Arif Khan, after consideration of the entire facts, I am inclined to grant one last opportunity to both the applicants so that they shall not involve themselves in any offence and shall live peacefully in society. Consequently, both the MCRC are hereby allowed. The applicants are directed to be released

on bail on each of them furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the Judicial Magistrate First Class Raipur, C.G. for their appearance before the said Court as and when directed till trial.

7. 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 above, the Court below may proceed further under the provisions of law under intimation.

8. It is further directed that till conclusion of the trial the applicants shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Gudiyari, District Raipur, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp. If the applicants failed to mark their appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicants were not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicants shall stand cancelled by the trial Court without further reference to the Bench.

9. Additional Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

10. In addition, the applicants are directed to not to communicate/contact in any of the manner with both the injured, their family members and the

witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, both the injured, their family members and the witnesses may report the said act to the trial Judge and if the trial Judge finds that in any way the applicants gave pressure or any attempt for any illegal favour in the trial or otherwise directly or indirectly, the bail granted to the applicants shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicants in custody including other measures as provided under the law.

11. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge