

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No. 3198 of 2017**

1. Suklal, S/o Kejuram Baghel, age about 55 years,
2. Gendoram, S/o Mangharam, age about 60 years,
3. Fulsingh, S/o Panduram, age about 50 years,

All residence of Village – Palna, P.S. Benoor, Tehsil and District –
Kondagaon, C.G.

---- Applicants

Versus

- State of Chhattisgarh Through- Police Station Benoor, District –
Kondagaon, C.G.

---- Non-Applicant

For Applicants	: Shri Vishnu Koshta, Advocate
For Respondent/State	: Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****07.06.2017**

Heard the matter finally.

2. This is repeat bail application of all the applicants. Earlier the applicants had filed MCRC No. 1868 of 2017. This Court vide order dated 04.04.2017 at the request of learned counsel for the applicants disposed of the said MCRC as withdrawn without any appreciation on its merit reserving liberty to file fresh application under Section 439 of the Cr.P.C. after filing of the charge sheet in the matter. In the said order, this Court observed that though as advised by the MLC conducting doctor for X-ray, X-ray report was not annexed along with copy of the entries of the case diary. Hence, this Court directed to take appropriate action against the

erring investigating officer as to why he has not placed the said X-ray report along with the case diary.

3. Learned counsel for the applicant would submit that now Benoor police, District – Kondagaon (C.G.) had filed the charge-sheet before the Chief Judicial Magistrate, Narayanpur, District – Kondagaon (C.G.) in connection with Crime No. 6 of 2017 under Section 294, 323, 506, 325/34 of the IPC along with under Section 4, 5 of the C.G. Tonahi Pratadna Nivaran Act, 2005. Though learned counsel is not in a position to mention the Criminal Case number. Learned counsel for the applicant would further submit that applicants were arrested on 21.02.2017, they are in custody since 3 months and 18 days and they are the first offender. He further submits that as per allegation on account of some alleged sorcery all the applicants assaulted Rayaz Bai as she is involved in the sorcery beaten her on hands and fists and also by hard and blunt object. In consequence, the said victim received 03 injuries. The doctor noticed lacerated wounds over frontal region of head, upper arm and left thigh, advised for X-ray examination and in X-ray examination left shoulder noticed dislocated, fracture over occipital bone and 7th and 8th ribs. The patient was not admitted in the hospital. Matter was triable by Judicial Magistrate, they will not commit any offence in future, looking to their length of detention period, they may be granted bail.
4. Per contra, learned counsel for the respondent / State opposes the bail application and arguments advanced on behalf of the applicant on the basis of entire incident as all the three applicants assaulted badly to a lady under allegation of sorcery caused her fracture as

aforementioned, gave threat to kill and used obscene words. Hence, looking to the entire facts, the instant MCRC may be dismissed.

5. Perused the entire material.
6. Earlier MCRC was not decided on its merit and now the charge-sheet has been filed, applicants are in jail since 03 months and 18 days till date, they are aged about 50, 55 and 60 years, they are first offender and local resident of same village and on account of untimely death of a child of the family of the applicants and as some ailment to other children of the family, applicants assaulted after making allegation to the victim Rayaz Bai and caused aforementioned injuries. As the applicants are in jail for since 03 months and 18 days, matter is triable by Judicial Magistrate and as the applicants are the first offender with no criminal antecedent and as submitted that they will not commit any crime in future, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- each with one solvent surety each to the satisfaction of Chief Judicial Magistrate, Narayanpur, District - Kondagaon (C.G.) for their appearance before the said Court as and when directed by the said Court.
9. 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.

Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Vacation Judge

Chandra