

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5546 of 2017

- Harendra Kumar @ Prims, S/o Ramchandra Yadav, Aged About 19 Years, R/o Laxmanpur, Police Station Mufashil, District Aara, Bihar.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Katghora, District Korba, Chhattisgarh.

---- Respondent

AND

MCRC No. 4339 of 2017

- Chandan Singh, S/o Muni Singh, Aged About 21 Years, R/o Bhakura, Police Station Mufasil, District Aara, Bihar.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Katghora, District Korba, Chhattisgarh.

---- Respondent

For Applicant in MCRC No.5546/17 : Shri B.K. Singh, Advocate.

For Applicant in MCRC No.4339/17 : Shri S.R.J. Jaiswal,
Advocate.

For Non-applicant/State : Shri Anant Bajpai, Panel
Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

14.09.2017

As both the cases arise out of the same crime number and incident, both are being disposed of by a common order.

2. Heard the matter finally.

3. Learned counsel for the applicants would submit that both the applicants were arrested on 05/02/2017 in connection with the Crime No.39/2017, registered in Police Station Katghora, Distt. Korba (C.G.) for the offence punishable under Section 394, 506 part ii, 34 & 397 of the Indian Penal Code.

4. Learned counsel for the applicants submits that after investigation police had filed charge-sheet against the total 3 accused persons including both the applicants which is presently pending before the Judicial Magistrate First Class, Katghora (C.G.) as Criminal Case No. 161/17, the applicant Abhishek Chakravarti had not preferred any MCRC. Earlier, the present applicant Harendra Kumar @ Prims had preferred MCRC No. 5323/17 for his release on bail. The said matter dismissed for want of prosecution on 19/05/17 as the applicant was not represented. Learned counsel for the applicant would submit that as per facts of the present matter the applicant and the co-accused Abhishek Chakravarti stopped one commercial vehicle, assaulted the complainant and helper by hands and feast gave threat to kill and looted Rs.14,000/-. The applicant will not commit any offence in future. Earlier, one more matter in a row, Crime No. 38/17 has been registered by the same Police Station, therein, it is alleged that all the 3 accused looted from another complainant which was also going on vehicle, Rs.4500/-only. This Court has already been granted the bail to both the applicants in MCRC No.2597/17 dated 07/09/2017 and MCRC No.4350/17 dated 07/09/2017, applicants will not commit any offence in future, therein, applicants were in custody since long. They may be granted bail during the remaining part of the trial.

5. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and would submit that both the applicants are the resident of Distt. Aara Bihar and they came at the spot and looted as aforementioned by causing simple injuries by hands and feet, though in the police Station Katghora no criminal antecedent has been registered, but possibility may not be ruled out for criminal antecedent of the applicants at their home State. If released on bail, may committed similar offences, hence both the MCRCs may be dismissed.

6. Perused the entire matter.

7. As both the applicants are in custody since 7 months and 9 days till date, charge-sheet has been filed, trial may take some time, both the applicants are aged about 19 years and 21 years respectively, though both the applicants are the resident of Distt. Aara, Bihar. But the said fact along with it is not debarred the applicants for consideration of bail the Katghora police had an opportunity to communicate with the Distt. Aara, Bihar Police regarding the criminal antecedent of the applicants and to place the above facts in the charge-sheet and case diary, though the applicants committed 2 offences as alleged in a row, looking to their age and the fact that police had not noticed any earlier criminal antecedent and long detention in the jail, I am inclined to grant one last opportunity to the applicants so that they shall not commit any offence in future and shall remain peacefully in the society.

8. Consequently, MCRC is hereby allowed.

9. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- with two

separate solvent sureties of Rs.50,000/- each to the satisfaction of Judicial Magistrate First Class, Distt. Korba, as the case may be for their appearance before the said Court as and when directed.

10. 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.

11. It is further directed that if any criminal antecedent of the applicants is known to the police subsequently, they shall place the matter regarding criminal antecedent before the concerned trial Judge. The concerned Trial Judge after appreciating the said fact may pass orders regarding cancellation of bail under intimation.

12. 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 Katghora, Distt. Korba **on First and Third Monday of every month at 11:00 am.** It is further made clear that if the applicants without any cogent and proper reason do not appear before the Police of Police Station Katghora, Distt. Korba as directed, the concerned police may inform the trial Court for the act and if their non-appearance found to be without any proper and

cogent reason, the instant order granting bail to the applicants shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

13. Register (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.

14. Copy of the order be placed in the file of MCRC No. 4339/2017.

15. Certified copy as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**