

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3940 of 2017**

1. Jeevan Kanwar S/o Late Dev Singh Kanwar Aged About 45 Years
2. Smt. Rupai Bai Kanwar W/o Jeevan Kanwar Aged About 40 Years

Both are R/o Village- Sankra, Police Station- Magarlod, District- Dhamtari, CG

---- Applicants**Versus**

State of Chhattisgarh through the Station House Officer, Police Station Magarlod, District- Dhamtari, Chhattisgarh

---- Respondent

For applicants	Mr. D.N. Prajapati, Adv.
For Respondent/State	Mr. Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12-7-2017**

1. Heard finally.
2. The applicants have preferred this application for grant of bail as they are arrested on 23-3-2017 in connection with Crime No. 40/2017 registered in PS Magarlod, Distt. Dhamtari (CG) for offence punishable under Section 307, 452, 325, 294, 323, 506-B, 34 of the Indian Penal Code, 1860.
3. Learned counsel for the applicants submits that after investigation, charge sheet has been filed against both the applicants which was initially registered before the JMFC, Kurud, Distt. Dhamtari as Criminal Case No. 316/2017, later said matter is committed to the court of Session and presently pending before the Additional Sessions Judge, Dhamtari as ST No. 29/2017. The applicants are in custody since more than 3½ months. They are first offender. No criminal antecedent is reported by the police. On account of some earlier dispute, present incident occurred. The doctor conducting MLC noticed three injuries over the body of injured Godavari including dislocation of right ulna and fracture over right little finger.

Injured Bitawan Bai also received 3 injuries caused by hard and blunt object including fracture over parietal region. Both the injured were admitted in the hospital for their treatment from 14-3-2017 till 22-3-2017 i.e. for 9 days. A club was seized from the applicants. **They may be granted bail as the trial may take time.** They will not repeat the offence in future.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicants and submits that the applicants for no provocation trespassed the house of their neighbour i.e. Godavari and Bitawan Bai and assaulted them through hard and blunt object, hand and fists and caused grievous injuries to both the injured due to which they remained hospitalized for 9 days taking treatment as indoor patient hence looking to the act of the applicants, instant MCRC may be dismissed.
5. Perused the entire material.
6. As both the applicants are in custody since 3 months and 19 days till date, charge sheet has been filed and the matter is pending before the Court of Session, trial may take some time, both the injured have been discharged from the hospital on 22-3-2017 and it is not the case of the prosecution that thereafter injured developed any further complication in their injury, taking all the facts into consideration, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them 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 Court/ Addl. Sessions Judge, Dhamtari for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.
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: (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. In addition, the applicants are directed not to communicate / contact in any manner with the injured and the witnesses cited in the charge sheet and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing that in any way the applicants directly or indirectly gave pressure for illegal favour in the trial or other wise, the bail granted to the applicants shall be cancelled without further reference to the bench and the concerned trial Court may take the applicants in custody including other measures as provided under the law.
9. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge.
10. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge