

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 38 of 2018**

Parmeshwar, S/o. Banihar, Aged About 19 Years, R/o. Pandariya Ward No. 4, Police Station Gandai, Tahsil Chhuikhadan, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station -Gandai, District Rajnandgaon Chhattisgarh,

---- Respondent

MCRC No. 309 of 2018

Kailash Sahu, S/o. Jeevan Sahu, Aged About 20 Years, R/o. Village Hanaiban, Police Station -Gandai, District -Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station: Gandai, District -Rajnandgaon Chhattisgarh.

---- Respondent

MCRC No. 51 of 2018

Parmeshwar, S/o. Banihar, Aged About 19 Years, R/o Village Pandariya, Ward No 4, Police Station Gandai, Tahsil Chhuikhadan, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Gandai, District Rajnandgaon Chhattisgarh,(As Per Remand Form).

---- Respondent

MCRC No. 276 of 2018

Kailash Sahu, Son Of Jeevan Sahu, Aged About 20 Years, R/o. Village Hanaiban, Police Station- Gandai, District Rajnandgaon, Chhattisgarh, Chhattisgarh

----- Applicant

Versus

State Of Chhattisgarh, Through Police Station -Gandai, District Rajnandgaon, Chhattisgarh.

---- Respondent

MCRC No. 67 of 2018

Parmeshwar, S/o. Banihar, Aged About 19 Years, R/o. Village Pandariya, Ward No. 4, Police Station Gandai, Tahsil Chhuikhadan, District Rajnandgaon Chhattisgrh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Gandai, District Rajnandgaon, Chhattisgarh

---- Respondent

AND**MCRC No. 268 of 2018**

Kailash Sahu, Son Of Jeevan Sahu, Aged About 20 Years, R/o Village Hanaiban, Police Station Gandai, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh :Through Police Station -Gandai, District -Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicants	: Mr. Roop Naik & Hemant Kesharwani, Advocates
For Respondent/State	: Mr. Ashok Swarnakar & Anant Bajpai, Panel Lawyers

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/02/2018

1. All the bail applications are heard and decided together by this common order as they are being arising out of the similar type of crime alleged to have been committed by the applicants.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants.
3. The applicant - Parmeshwar has been arrested in connection with **Crime No.281/2017**, registered at Police Station – Gandai, District –

Rajnandgaon (C.G.) for the offence punishable under Section 509 of the Indian Penal Code and Section 66(D) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 38/2018), **Crime No.280/2017**, registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for the offence punishable under Section 509, 506 of the Indian Penal Code and Section 66(D) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 51/2018) and in connection with **Crime No.282/2017** registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for the offence punishable under Section 294, 509 of the Indian Penal Code and Section 66(D) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 67/2018).

4. The applicant – Kailash Sahu has been arrested in connection with **Crime No.281/2017**, registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for the offence punishable under Section 509 of the Indian Penal Code and Section 66(C) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 309/2018), **Crime No.280/2017**, registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for the offence punishable under Section 509, 506 of the Indian Penal Code and Section 66(C) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 276/2018) and in connection with **Crime No.282/2017** registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for the offence punishable under Section 294, 509 of the Indian Penal Code and Section 66(C) of the Information Technology Amendment Act, 2000 (in M.Cr.C. No. 268/2018).

5. It is submitted by the learned counsel for the applicants that the applicants are innocent and have been falsely implicated in this case. No case is made out against them on the basis of the material present in the charge-sheet, filed against them. Offence for which the applicants are prosecuted under Section 66(C) and 67 I.T. Act are bailable in nature. At the time of filing of charge-sheet, offence under Section 67(a) of I.T. Act has been added for which, there is no evidence present in the prosecution case against these applicants. Applicants are in jail since 08.12.2017 and are ready to abide by all the conditions imposed for grant of bail, therefore, it is prayed that the applicants may be enlarged on bail.
6. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that there is serious allegation against these applicants about misusing social media network for using abusive and vulgar language against the police man and other persons, which is defamatory and derogatory, the offence under Section 67(a) of I.T. Act is non-bailable offence, hence, looking to the allegation against them they are not entitled for grant of regular bail.
7. I have heard the learned counsel for both the parties and perused the case diary.
8. In Crime No.280/2017, complainant – Prapti Verma had lodged complaint alleging that on the face-book ID mentioned as Aryan Markam, her photo has been uploaded with vulgar and defamatory comments against her and also some defamatory comments has been made against police man of the police station – Gandai on that basis

case was registered against these applicants as from the ID in the face-book, it was traced that applicant Parmeshwar was the owner of the said ID, which he had posted the comments at the instance of the applicant – Kailash Sahu.

9. In Crime No.281/2017, complainant – Yashomati Verma made a complaint that on one ID by name Aryan Markam, her photo has been uploaded with vulgar comments.
10. On similar complaint made by Gitesh in Crime No.282/2017 has been registered in which, the allegations is that by using vulgar and obscene language, the complainant has been defamed in the face-book ID by name Aryan Markam. It is already mentioned that the said face-book ID is that of Parmeshwar and is used by the applicant Kailash Sahu.
11. Considered the submissions made and the contents of the case diary. Considering the entire material present in the case diary in all three cases, offence under Section 66 (c) and 67 of I.T. Act is made out on the basis of the contents of the case diary and both the offences are punishable for maximum up to three years of imprisonment and according to the provisions under Section 77 of the I.T. Act, the offence under this act that are punishable up to three years are bailable in nature.
12. On going through the material in the case diary apart from the use of vulgar language, there is nothing to show that sexually explicit material has been published in the said ID of the face-book. As the charge-sheet has been filed after completion of investigation and no purpose would be served, if the, applicants are kept in detention till the conclusion of trial, and presence of the applicants before the trial Court

can be ensured by imposing conditions, hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicants should be enlarged on regular bail.

13. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

14. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram