

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3809 of 2018

1. Sheikh Ajhar @ Aju S/o Late Sheikh Nawab Aged About 22 Years, R/o Ganesh Nagar Chuchuiyapara Bilaspur, P.S. Sirgitti, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Ravi Yadav S/o Laxman Yadav Aged About 21 Years R/o Power House Torwa Bilaspur, P.S. Torwa, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Prem Shukla S/o Naresh Aged About 22 Years R/o Dhuma, P.S. Sirgitti, Bilaspur, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Ganesh Yadav S/o Manhar Yadav Aged About 23 Years R/o Sirgitti, P.S. Sirgitti, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Police Station Sirgitti, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Non-applicants

MCRC No. 3867 of 2018

1. Laxmi Chouhan S/o Shripal Chouhan, Aged About 27 Years, R/o- Awaspara, Ward No.1 Sirgitti, P.S. Sirgitti, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Vikas Dhiwar S/o Shyam Dhiwar Aged About 24 Years R/o- Mahamaya Nagar, Tifra, P.S. Sirgitti, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Sirgitti, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

MCRC No. 4064 of 2018

1. Ravi Nishad S/o Mohan Nishad Aged About 23 Years, R/o Old Power House Torva, Police Station Torva, Tehsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Sirgitti, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant(s) – Shri Praveen Kumar Tulsyan, Advocate (in MCRC No.3809 of 2018),
Shri C.K. Kesharwani, Advocate (in MCRC No.3867 of 2018),
Shri S.S. Baghel, Advocate (in MCRC No.4064 of 2018).
For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-07-2018

1. As all these three applications arise out of the same crime number, i.e., Crime No.76/2018, registered at Police Station Sirgitti, District Bilaspur, Chhattisgarh for the offence under Section 307, 456, 34 of the IPC, they are being decided by this common order.
2. These are the first bail application before this Court filed by the applicants for grant of regular bail under Section 439 of the Cr.P.C. The applicants in MCRC No. 3809/2018 have been arrested on 15-03-2018, the applicants in MCRC No.3867/2018 have been arrested on 10-03-2018 and the applicant in MCRC No.4064/2018 has been arrested on 14-03-2018 in connection with aforesaid crime number and offence.
3. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. No case is made out against them according to the evidence present in the prosecution case. Charge sheet has been filed after completion of the investigation. According to the MLC report of the injured Bisaru Nirmalkar, all the injuries caused to him are of simple nature, which itself shows that there had been no intention to cause death. Apart from that, on referring of the memorandum statement of applicant Sheikh Ajhar, it appears that he has stated that his intention was only to threaten and harass the complainant and not to cause death. Regarding other applicants it is submitted that their case is similar to that of other co-accused namely Ashutosh Ramteke, Gopi Kaushik, Vinod Shrivastava, Sumit Sahgal, Rohan and Ayush Mahapatra who have been granted bail by this Court. None of these applicants have been named by any witness as assailants. Hence, it is prayed that these applicants may be granted regular bail.
4. Learned counsel for the State/non-applicant opposes the application and submits that there is eye-witness to this incident and the complainant has

also identified the assailant in the test identification parade, further, the memorandum of the accused persons clearly shows the involvement of these applicants in crime in question. Hence, no case is made out for grant of bail to these applicants.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the prosecution case, on the date of incident, the door of complainant Bisaru Nirmalkar was knocked and when he opened the door he saw two unknown persons who were asking for an address, at the same time, both of them took out sharp edged weapons and assaulted him with intention to cause his death, but the complainant saved himself and suffered injury on other parts of body. On that basis the FIR has been lodged. Hence, this case.

7. Considered on the material present in the case diary. The complainant has identified accused Ganesh and Sheikh Ajhar as assailants who had injured him with sharp edged weapons. Although the injury suffered by him are simple in nature, but his statement under Section 161 of the Cr.P.C. is clear on this point stating that the assailants intended to cause his death. Hence, no finding can be given at this stage of grant of bail as to whether the assailants had intention to cause death of the complainant or not.

8. On the basis of the evidence present in the case diary applicant Sheikh Ajhar @ Aju is not entitled for grant of bail. Hence, his prayer for grant of regular bail is rejected.

9. Regarding other applicants, it appears that their case is similar to that of the co-accused persons who have been granted bail by this Court in the earlier bail petitions filed by them. Hence, for this reason, their prayer for grant of regular bail are allowed.

10. Consequently, applicants Laxmi Chouhan, Vikas Dhiwar in MCRC No.

3867 of 2018 and applicant Ravi Nihad in MCRC No.4064 of 2018 and applicants Ravi Yadav, Prem Shukla and Ganesh Yadav in MCRC No.3809 of 2018 are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge