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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 918 of 2017

- Sheshnarayan Dwivedi S/o Umashanker Dwivedi, Aged About 39 Years, R/o Rajiv Gandhi Ward No. 33, Akash Shanagar, Police Station Bodhghat Jagdalpur, District Bastar Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Nagarnar, District Baster Chhattisgarh., Chhattisgarh

---- Non-applicant

And

MCRC No. 6810 of 2017

- Sanjay Mishra S/o Maharajdin Mishra, Aged About 47 Years, R/o Hikmipara, Police Station Kotwali, Jagdalpur, District Bastar Chhattisgarh , Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Nagarnar, District Bastar Chhattisgarh , Chhattisgarh

---- Non-applicant

And

MCRC No. 7073 of 2017

- Ravi Kashyap S/o Shree Shiv Prasad Kashyap, Aged About 32 Years, R/o Gandhi Nagar Ward, P. S. Bodhghat, Jagdalpur, Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Nagarnar, District Bastar, Chhattisgarh., Chhattisgarh

---- Non-applicant

And

MCRC No. 7167 of 2017

- Harpinder Singh S/o Late Shree Jagtar Singh, Aged About 36 Years, R/o Vrindawan Colony, Jagdalpur, Chhattisgarh, Chhattisgarh

----Applicant

Versus

- State Of Chhattisgarh Through The Police Station Nagarnar, District Bastar, Chhattisgarh, Chhattisgarh

---- Non-applicant

And

MCRCA No. 919 of 2017

- Sanjay Pathak S/o Shri Mahadeo Pathak, Aged About 45 Years, R/o Tiranga Chowk, Ambedkar Ward Jagdalpur, District Jagdalpur Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. Nagarnar, District Bastar Chhattisgarh., Chhattisgarh

---- Non-applicant

And

MCRCA No. 920 of 2017

- Vikram Singh @ Vikky Kushwaha S/o Satendra Kushwaha, Aged About 35 Years, R/o Frajerpur, District Kanker Chhattisgarh , Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Nagarnar, District Bastar Chhattisgarh , Chhattisgarh

---- Non-applicant

And

MCRCA No. 1072 of 2017

- Malkit Singh Gaidu S/o Mahendar Singh Gaidu, Aged About 52 Years, R/o Shanti Nagar Ward, Police Station Bodhghat, Jagdalpur District Bastar Chhattisgarh. Civil And Revenue District Bastar . , Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Nagarnar, Jagdalpur District Bastar Chhattisgarh. , Chhattisgarh

---- Non-applicant

And

MCRC No. 704 of 2018

- Aniket @ Monu S/o Khushta Das, Aged About 32 Years, R/o Nayamunda, Jagdalpur District Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Nagarnar, District Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Pushpendra Singh Baghel, Advocate (in MCRCA No.918/2017, MCRC No.6810/2017, MCRCA No.919/2017 and MCRCA No.920/2017)

Shri Maneesh Sharma, Advocate (in MCRC No.7073/2017, MCRC No.7167/2017 and MCRC No.704/2018),

Shri Shailendra Dubey, Advocate (in MCRCA No.1072/2017)

For Non-applicant/State – Shri Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

25-01-2018

1. As all the eight matters arise out of the same crime number, i.e., Crime Number No.104/2017 registered at Police Station - Nagarnar, District Bastar, C.G., they are being decided by this common order.

2. Applicant in MCRC No.7073/2017 and MCRC No.6810/2017 have been arrested on 13-05-2017 and applicant in MCRC No.704/2018 has been arrested on 15-05-2017 and applicant in MCRC No.7167/2017 has been arrested on 25-05-2017 in connection with aforesaid crime number for the offence punishable under Section 147, 148, 149, 341, 427, 294, 506-B, 307, 212 of the IPC and Section 25, 27 of the Arms Act. These are their first bail application before this Court for grant of regular bail under Section 439 of the Cr.P.C.

3. Applicant in MCRCA No.1072/2017 and MCRCA No.918/2017 are apprehending their arrest in connection with aforesaid crime number for the offence punishable under Section 147, 148, 149, 341, 447, 294, 506-B, 307 of the IPC and Section 25, 27 of the IPC, and applicant in MCRCA No.919/2017 is apprehending his arrest in connection with aforesaid crime number for the offence punishable under Section 147, 148, 149, 294, 323, 506(B), 427, 307, 212 of the IPC and Section 25, 27 of the Arms Act and applicant in MCRCA No.920/2017 is apprehending his arrest in connection with aforesaid crime number for the offence punishable under Section 147, 148, 149, 294, 341, 506(B), 427, 307, 212 of the IPC and Section 25, 27 of the Arms Act. Therefore, they have filed these applications for grant of anticipatory bail under Section 438 of the Cr.P.C.

4. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. It is submitted that applicant Sheshnarayan Dwivedi in MCRCA No.918/2017 has not been reported to be present in the place of incident in the FIR and his name has been arrayed in the statement recorded under Section 161 of the Cr.P.C. subsequently with deliberate intention. No case is made out against the applicants on the basis of the evidence against them. It had been a case of free fight, in which, one of the accused has also suffered grievous injuries and was needed to be

hospitalized. The offence alleged to be committed under Section 307 of the IPC is not made out in any manner; all the injuries suffered by the injured persons are simple in nature. The charge sheet has been filed in this case against the other co-accused showing the applicants in anticipatory bail applications as absconder. The statement of the doctor conducting MLC has been examined and he has given statement that no grievous injury was caused to any of the injured persons. Hence, it is prayed that applicants in MCRC No.6810/2017, MCRC No.7073/2017, MCRC No.7167/2017 and MCRC No.704/2018 may be granted regular bail and applicants in MCRCA No.918/2017, MCRCA No.919/2017, MCRCA No.920/2017 and MCRCA No.1072/2017 may be benefited with grant of anticipatory bail.

5. Learned counsel for the State/non-applicant opposes all the applications and submissions made. It is submitted that the applicants who are praying for anticipatory bail have been declared absconder, hence, they are not entitled for grant of anticipatory bail, in view of the judgment of Hon'ble the Supreme Court in the matter of **State of M.P. v. Pradeep Sharma, (2014) 2 SCC 171**, according to which, if accused is declared as an absconder/proclaimed offender in terms of S. 82 Cr.P.C., he is not entitled to relief of anticipatory bail. It is further submitted that the other accused who are praying for regular bail are being prosecuted for serious offences and on the basis of evidence against them in the prosecution case, they are not entitled for grant of regular bail.

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

7. The case against the applicants is this that, on the date of incident accused Shakti Singh Chouhan along with applicant Malkit Singh Gaidu (in MCRCA No.1072/2017), applicant Harpinder Singh (in MCRC No.7167/2017), applicant Sanjay Mishra (in MCRC No.6810/2017), applicant Ravi Kashyap (in MCRC No.7073/2017), applicant Vikram Singh (in MCRCA No.920/2017) and others stopped the vehicle in which complainant Shailendra Bhadoriya and

other persons were traveling and after using obscene words and threatening to kill them, all the assailants by using rods, sharp edged weapons, illegal firearm etc. assaulted the complainant and other persons causing injuries to Srinivas Rao, Basant Kumar Singh, Dharendra Singh, Sameer Tiwari, Maneesh Parakh, Shailendra Bhadoriya, Sourabh Mandal, Umashankar. After lodging of the FIR the case has been registered and charge sheet has been filed after completion of the investigation. Name of Sheshnarayan Dwivedi and Sanjay Pathak found place in the final charge sheet and the evidence of the case against them.

8. Considered on the submissions made and contents of the case diary.

9. Looking to the evidence available on record against the applicants in MCRCA No.920/2017 and MCRCA No.1072/2017, I am of this view that they do not deserve to be benefited with grant of anticipatory bail.

10. Accordingly, MCRCA No.920/2017 and MCRCA No.1072/2017 are hereby dismissed.

11. As the names of applicants Sheshnarayan Dwivedi in MCRCA No.918/2017 and Sanjay Pathak in MCRCA No.919/2017 have appeared in subsequent development, they deserve to be benefited with grant of anticipatory bail.

12. Accordingly, MCRCA No.918/2017 and MCRCA No.919/2017 are hereby allowed. It is directed that in the event of arrest of applicants Sheshnarayan Dwivedi and Sanjay Pathak in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Investigating Officer. These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;

- (ii) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

13. Considering on the facts that the trial is already going on against the applicants who are in jail and the trial against them is likely to take some time before its conclusion, I am of this view that MCRC No.6810/2017, MCRC No.7073/2017, MCRC No.7167/2017 and MCRC No.704/2018 filed under Section 439 of the Cr.P.C. deserve to allowed.

14. Consequently, MCRC No.6810/2017, MCRC No.7073/2017, MCRC No.7167/2017 and MCRC No.704/2018 filed under Section 439 of the Cr.P.C. by the applicants therein for grant of regular bail are hereby allowed. It is directed that they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

15. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge