

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7769 of 2017**

Kuleshwar Sahu S/o Ramesh Sahu Aged About 22 Years Occupation
Agriculturist R/o Village Pandkidih, Police Station Nawagarh, District
Bemetara Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Nawagarh, District Bemetara Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 7914 of 2017**

Sultana Bai W/o Rajaram Sahu Aged About 52 Years Occupation
House Wife R/o Village Pandkidih, Police Station Nawagarh, District
Bemetara Chhattisgarh.

---- Applicant**Vs**

The State Of Chhattisgarh Through Station House Officer, Police
Station Nawagarh, District Bemetara Chhattisgarh.

---- Respondent

For the Applicants : Shri P.P. Sahu, Advocate.

For the Respondent/State : Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****20.02.2018**

1. Both these applications are decided by a common order as they arise from the similar matter. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.209 of 2017, registered at Police Station Nawagarh, District – Bemetara, Chhattisgarh for the offence punishable under Section 307/ 34 of the Indian Penal Code and Section 25 of the Arms Act.

2. Learned counsel for the applicants submits that the applicants in both the cases are in jail since 10.11.2017 and they have been falsely implicated in these cases. On the date of incident when main accused – Rajaram Sahu assaulted the complainant, these applicants had no knowledge that the main accused was armed with weapon. It is also stated in the statement of the complainant under Section 161 Cr.P.C. that the weapon was kept concealed by the main accused in his clothes which was all of sudden taken out and used for assault. No case is made out against the applicants in both the cases on the basis of the material placed before the Court by the prosecution. The applicants are ready to abide by all the conditions that may be imposed on them. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that according to the allegations, applicant – Kuleshwar Sahu in M.Cr.C. No.7769 of 2017 assaulted the complainant with a club and applicant – Sultana Bai in M.Cr.C. No. 7914 of 2017 caught hold of the complainant when he was assaulted by the main accused by means of Gandasa, hence, their participation is equal with common intention. Hence, it is prayed that none of the applicants deserves to be enlarged on bail.

4. Heard counsel for both the parties and perused the case diary.

5. On the date of incident, the complainant in capacity of Sarpanch of Gram Panchayat, Pandkidih was supervising the removal of encroachment and the affected party was main accused - Rajaram Sahu. At the time of incident, co-accused – Rajaram Sahu and the applicants got enraged and

during the dispute applicant – Kuleshwar Sahu assaulted the complainant with a club while applicant – Sultana Bai caught hold the complainant and it was at the same time co-accused Rajaram Sahu took out a Gandasa (a sharp edged cutting tool) and assaulted the complainant on his head causing two injuries, out of which, one injury was coupled with fracture. After lodging of FIR, the case has been investigated and the charge-sheet has been filed.

6. On perusal of the statements of the complainant under Section 161 of Cr.P.C. and other witnesses, the grounds raised and the arguments submitted on behalf of the applicants find some force. Considering the submissions and the contents of the case-diary, and for the aforesaid reasons in totality, I am of the considered view that the applicants in both the cases deserve to be released on bail.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge