

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 635 of 2020

1. Ramandeep Singh S/o Sarvan Singh Aged About 24 Years R/o Village - Tahkhurd, Thana Bilaspur, District Rampur (U.P.) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh.
2. Gurdeep Singh S/o Late Shivdev Singh Aged About 38 Years R/o Village - Tahkhurd, Thana Bilaspur, District Rampur (Uttar Pradesh) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh.
3. Rajesh Tiwari S/o Late Indradev Tiwari, Aged About 37 Years R/o Village - Bharthuan, Thana Khukhundu, District Devariya (Uttar Pradesh) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh.
4. Awadhesh Singh S/o Rajendra Singh Aged About 22 Years Village - Ledhora, Thana Ledhora, District - Teekamgarh (Madhya Pradesh) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh
5. Karan Joshi S/o Vinod Joshi Aged About 35 Years R/o Somwar Ka Bazaar, Bilaspur Thana Bilaspur District Rampur (Uttar Pradesh) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh
6. Shyam Kumar Gupta S/o Shivnath Gupta, Aged About 23 Years R/o Village - Tatorai, Thana Sandana, District - Sitapur (Uttar Pradesh) Present Address - Village - Joratarai, Thana Kurud, District : Dhamtari, Chhattisgarh
7. Jasbeer Singh S/o Meva Singh, Aged About 24 Years R/o Telibandha, Thana Telibandha, District : Raipur, Chhattisgarh
8. Guruvachan Singh S/o Kishan Singh, Aged About 56 Years R/o House No. 532, New Housing Board Colony, Barnal Road, Sirsa, Thana And District Sirsa, Haryana, Present Address Chhata Road, Near Daru Bhatti, Navapara, Thana Gobra Navapara, District : Raipur, Chhattisgarh

---- Appellants

Versus

State Of Chhattisgarh Through Police Station - Kurud, District : Dhamtari, Chhattisgarh

---- Respondent

WITH

CRA No. 672 of 2020

Prahlad Kunjam S/o Hari Ram Kunjam Aged About 35 Years R/o Near To Maa Durga Temple, Ward No. 08 , Farasgaon, Police Station Farasgaon, District : Kondagaon, Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh Through Police Staton Kurud, District : Dhamtari, Chhattisgarh

---- Respondent

WITH

CRA No. 673 of 2020

Nagendra @ Nagu Chandrakar S/o Suryabhan Pratap Singh Chandrakar Aged About 42 Years R/o Village Rakhi, P.S. Kurud, District : Dhamtari, Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh Through P.S. Kurud, District : Dhamtari, Chhattisgarh

---- Respondent

For Appellants (In CRA No.635/2020) : Mr. Sachin Singh Rajput, Advocate
along with Ms. M. Asha, Advocate

For Appellant (In CRA No.672/2020

& CRA No.673/2020)

: Ms. Madhunisha Singh, Advocate

For Respondent/State

: Mr. Ghanshyam Patel, G.A.

For Objector

: Mr. Akash Shrivastava, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment On Board

29.10.2020

1. The matter is heard through Video Conferencing.

2. Since, all the cases are arising out of same crime number, therefore, they are being decided by this common judgment.
3. These appeal has been preferred under Section 14(A)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against impugned orders dated 15.07.2020, 01.07.2020 & 31.07.2020, respectively, passed by the learned Special Judge, Atrocities, District: Dhamtari (C.G.) whereby the Trial Court has rejected bail application of all the Appellants preferred under Section 439 of Cr.P.C. which relates to crime number: 293/2020, registered at Police Station: Kurud, District: Dhamtari (C.G.) for the offence punishable under Sections 392, 395, 294, 323, 506, 147, 148, 149, 342/34 of IPC & 3 (1) (m), 3 (1) (r), 3 (1) (s) & 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. According to the case of prosecution, on 19.06.2020 at around 02:10 P.M., a written report has been lodged by the complainant namely Khublal Dhruw wherein, it has been alleged that, in the night of 18.06.2020 at around 11:00 P.M., complainant namely Khublal Dhruw along with his friends went to sand mines at Village Joratarai to stop illegal sand mining. He asked one Nagu Chandrakar (Appellant in CRA No.673/2020) to stop the illegal mining. At that time, all the Appellants assaulted him with rod and stick and also made him hostage for three hours. It is further alleged that, the Appellants looted mobile phone, chain, rings of him and his friends and used abusive language and also threatened to kill the complainant. On the basis of report made by complainant, offence has been registered. The statements of witnesses were recorded

under Section 161 of Cr.P.C. During course of investigation, the looted property was seized from the possession of the present Appellants. After completion of investigation, charge-sheet has been filed. The Appellants (In CRA No.635/2020) were arrested on 19.06.2020. The Appellant (In CRA No.672/2020) was arrested on 28.06.2020. The Appellant (In CRA No.673/2020) was arrested on 24.07.2020. Thereafter, all the Appellants have filed an application under Section 439 of Cr.P.C. before learned Special Judge, Atrocities, Dhamtari, District: Dhamtari (C.G.) and the said has been rejected by the learned Special Judge vide order dated 15.07.2020, 01.07.2020 & 31.07.2020 respectively. Hence, this appeal.

5. Learned counsel appearing on behalf of each of the Appellants jointly submits that the Appellants are innocent. They submit that in the written complaint only the name of Nagendra Chandrakar was mentioned by the complainant. Later on, when the statements of Mittal Sahu and Moksh Sahu were recorded, they disclosed the name of only 07 persons. Thereafter, statement of complainant Khublal Dhruw and other witnesses were recorded. At that time, due to political rivalry they have mentioned the name of the Appellants in their statements. Learned counsel also submits that Khublal Dhruw as well as other injured persons sustained only simple injuries, though, one of the injury sustained by Khublal Dhruw is on his head but it is also simple in nature. Virtually, at the time of incident, the complainant fell down and his head got hit in the rock, due to which he sustained injuries on his head, therefore, Prima Facie offence under Section 307 is not made out. Learned counsel further submits that the Appellants are in jail, charge-sheet has already been filed,

therefore, trial is likely to take time, therefore, it is prayed that the Appellants may be released on bail.

6. Per contra, learned Counsel appearing on behalf of the State and objector oppose the appeal. One CD which has been submitted by the counsel for the Objector, referring to that CD, learned counsel for the objector submits that from the Video Clip shown in that CD, it is clearly seen that the Appellant along with other persons abused, harassed and beaten the complainant and other victims, therefore, Prima Facie there is sufficient material available against the present Appellants and looking to the nature of crime, the instant appeal of the present Appellants be rejected.
7. I have heard learned Counsel for the parties.
8. I have perused the written complaint made by the complainant, statements of the witnesses recorded under section 161 of Cr. P.C. Also perused the other documents annexed with the bail application and documents annexed with the objection submitted by the counsel for the objector. I have also seen the CD which has been submitted by the counsel for the Objector. From perusal of the above and after seeing the video clip shown in the CD, it appears that some dispute took place between the parties, but from the MLC report of the complainant and other victims, it also appears that they sustained only simple injury. From perusal of the record, it appears that there are two discharge summary/discharge tickets of complainant Khublal Dhruw. In the first discharge summary, it is mentioned that he was discharged on 27.06.2020 on 10:00 A.M. and in another discharge summary it is mentioned that he was discharged on 26.06.2020 at

08:00 PM. This Khublal is one of the witness of memorandum statement of Nagendra Chandrakar (Appellant in CRA No.673/2020) recorded under Section 27 of Indian Evidence Act. The said memorandum statement of Nagendra Chandrakar was recorded on 26.07.2020 at the premises of Police Station. Thus, it appears that either the date of memorandum statement is wrongly mentioned or the date of discharge summary/discharge tickets of the complainant is wrongly mentioned. Further, considering the fact that Appellants in CRA No.635/2020, CRA No.672/2020 & CRA No.673/2020 are in jail since 19.06.2020, 28.06.2020 & 24.07.2020 respectively, without further commenting on other merits of the case, I am inclined to release the appellants on bail.

9. Accordingly, the appeal is allowed. The impugned order is set-aside.
10. It is directed that the appellants shall be released on bail on each of them executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for their appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge