

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 692 of 2021

1. Pawan Kumar Patel S/o Shri Dujram Patel, Aged About 32 Years, R/o Village Khatti, Thana Khallari, Tahsil And District Mohasamund (C.G.).
2. Mohan Patel S/o Shri Ghasiram Patel, Aged About 63 Years, R/o Village Khatti, Thana Khallari, Tahsil And District Mahasamund (CG.).

---- Applicants

Versus

1. The State Of Chhattisgarh, Through The Station House Officer, Police Station Khallari, District Mahasamund (C.G.).

---- Non-Applicant

For Applicants	: Mr. Sumit Shrivastava, Advocate.
For Non-Applicant/State	: Mr. C.B. Kesharwani, Panel Lawyer.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

08/03/2021

- 1) The applicants have filed this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of bail as they are in custody since 06/01/2021 in connection with Crime No. 02/2021 registered at Police Station Khallari, District Mahasamund (C.G.) for the offence under Sections 294, 506, 307/34 of IPC.
- 2) Case of the prosecution in brief is that on 01/01/2021 at 7 PM, Pawan Patel, Manoranjan Patel, Hanif Khan and Punarad Sahu were playing Ludo in the village near the house of the complainant Kundan Patel. While playing applicant Pawan Patel was abusing filthily. When the father of the complainant Kishan Patel objected to it, applicant Pawan Patel started quarreling with him. Hearing the commotion, applicant Mohan Patel and other

villagers came there. Applicant Mohan Patel slapped Kishan Patel and thereafter both the applicants had a scuffle with Kishan Patel which were intervened by the villagers. However, at about 7:30 PM applicant No. 2 Mohan Patel came back from his house with an Axe and assaulted Kishan Patel on his head with intention to kill him. When Mohan Patel attempted to repeat the Axe assault, the villagers snatched the Axe from him or else he would have killed Kishan Patel.

- 3) At the outset, learned counsel appearing for the applicants seeks to withdraw this application on behalf of applicant No. 2 Mohan Patel.
- 4) Accordingly, the application at the instance of applicant No. 2 Mohan Patel is **dismissed as withdrawn**.
- 5) Learned counsel for the applicant Pawan Patel submits that applicant is an innocent person and has been falsely implicated in this case. He submits that no active role was played by this applicant in commission of the offence. He submits that there is no allegation of assault made by this applicant on the victim. He submits that applicant No. 1 Pawan Patel is in jail since 06/01/2021, and conclusion of trial is likely to take some time for its disposal. Therefore, the applicant No. 1 Pawan Patel be released on bail.
- 6) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 7) Heard learned counsel for the parties.
- 8) Considering the facts and circumstances of the case, the manner in which the offence is said to have taken place, the fact that there is no allegation of assault by applicant No. 1 Pawan Patel on the victim, his detention period, that there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel, and the trial is likely to take some time for disposal, without commenting anything on merits of the

case, the application at the instance of applicant No. 1 Pawan Patel is **allowed**. It is directed that in the event of applicant No. 1 Pawan Patel executing a personal bond for a sum of **Rs. 50,000/-** with **two** sureties of Rs. 25,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on the following conditions:-

- i. he 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 from disclosing such fact to the Court,
- ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- iv. he shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Court.

- 9) In the result, the present application at the instance of **applicant No. 1 Pawan Patel is allowed** on the above terms and conditions whereas it is dismissed in respect of **applicant No. 2 Mohan Patel as withdrawn**.

-Sd/-
(Gautam Chourdiya)
Judge