

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C. No. 1387 of 2021

1. Mirchi Dogre S/o Mahesh Dogre, Aged About 21 Years.
2. Ajay Sagar @ Badu S/o Santosh Sagar, Aged About 22 Years.
3. Viraj Soni @ Tande S/o Bholu Soni, Aged About 24 Years,

All are R/o Sweepar Colony Balodabazar, Police Station -City Kotwali, Balodabazar, District- Balodabazar-Bhatapara, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh Through Station House Officer, Police Station -City Kotwali, Balodabazar, District- Balodabazar -Bhatapara, Chhattisgarh. (Wrongly Mentioned In Order Sheet As Police Station Palari).

--- Respondent

For Applicant	: Ms. Smita Jha, Advocate.
For Respondent/State	: Mr. B.P. Banjare, Dy GA..

(Proceedings through video conferencing)
Hon'ble Shri Parth Prateem Sahu, J
Order on Board

13/07/2021

Heard.

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who have been arrested in connection with Crime No.819/2020, registered at Police Station – City Kotwali, Balodabazar, District -Balodabazar -Bhatapara, (C.G), for the offence punishable under Sections 307, 34 of Indian Penal Code & Sections 25 & 27 of Arms Act.
2. Case of the prosecution is that on 26.11.2020 at about 1:00 PM, complainant Saif Khan was going to market, at that point of time one boy came and intimated him that some boys are in search of him. After a short while, 3-4 boys came and assaulted him by means of Knife and

club, due to which, complainant suffered grievous injuries over his thigh, left waist and chest, he was taken to his home by some other persons. Complaint was lodged with concerned police mentioning therein that on account of some old incident with Bhagwati Yadav, he has been assaulted. Based upon which, instant crime was registered against present applicant along with one Vijay Soni.

3. Learned counsel for the applicants submits that absolutely false and frivolous allegations have been levelled against present applicants. In FIR, name of these applicants are not mentioned, only on the basis of statement recorded under Section 161 name of two persons i.e. applicant No.2 & 3 have been taken by injured/complainant. She further submits that the assailants, who attacked upon complainant were unknown persons. Complainant took treatment in hospital only for 4 days and upon recovery from injuries, he was discharged. The injuries suffered by complainant were grievous in nature is not mentioned in MLC report. Applicants are not having any criminal antecedents, they were arrested on 26.11.2020, hence, they may be released on bail.
4. Learned counsel for the State opposes the submissions made by learned counsel for the applicants and submits that there are specific allegations against present applicants that they have assaulted the complainant by means of Knife and club, due to which, complainant suffered grievous injuries over vital part of his body. He also submits that as per memorandum statement of Vikash Soni, allegation with regard to assault by means of knife is upon one **Vijay Soni**. On putting a specific query to learned State Counsel with regard to any criminal antecedents of applicants, he replied that there is no mention of any criminal antecedents of applicants in the case diary.

5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegations levelled against applicants, memorandum statement of Vikash Soni, part played by present applicants as alleged in complaint, the fact that they have not assaulted by means of knife and date of their arrest, without commenting anything on merits of the case, I am inclined to allow this bail application.
7. Accordingly, bail application is allowed. It is directed that applicants shall be released on regular bail, on their furnishing a bail bond in sum of **Rs.25,000/-** each with one surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) Applicants shall appear as and when directed by the investigating agency during the course of investigation.
 - b) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If they are found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-