

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 3106 of 2021

- Rikhiram Nirmalkar, S/o Chandragopal, Aged About 21 Years, R/o Lokhandi, Police Station Sakri, District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer Police Station Koni, District Bilaspur Chhattisgarh.

---- Respondent

MCRC No. 4297 of 2021

- Shiva Patel, S/o Mela Ram Patel, Aged About 22 Years, R/o Village Dhuma, P.S. Torwa, Tahsil & District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station Koni District Bilaspur Chhattisgarh.

---- Respondent

For Applicants	:	Shri Hemant Kesharwani, Advocate in MCRC No. 3106/2021 Shri Vinod Kumar Tekam, Advocate in MCRC No. 4297/2021
For Non-Applicant/State	:	Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

02.08.2021

- 1) Since both these applications arise out of same crime number, they are being disposed of by this common order.
- 2) **MCRC No. 3106/2021:** The applicant Rikhiram Nirmalkar has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is arrested on 09.11.2020 in

connection with Crime No. 35/2020 registered at Police Station- Koni, District Bilaspur (C.G.) for the offence punishable under Section 392, 34 of IPC.

- 3) **MCRC No. 4297/2021:** This is the **second bail application** of applicant- Shiva Patel. The first bail application of the applicant was dismissed as withdrawn with liberty to file afresh as and when occasion arises vide order dated 17.02.2021 passed in MCRC No. 262/2021.
- 4) As per the prosecution case, on 17.02.2020, at about 22:30 Hours, when complainant was returning from wine shop, on the way, some unknown persons stopped him and looted Rs. 1,63,960/-, by throwing chilly powder on him and also assaulted him by stick.
- 5) It is submitted on behalf of learned counsel for the applicants that the applicants are innocent and have been falsely implicated in this case. It is submitted that charge-sheet has been filed and they are in jail since 09.11.2020, there is no criminal antecedent against them, there is no apprehension of their absconding or tampering with the evidence of the prosecution, due to COVID-19 pandemic, conclusion of the trial is likely to take some time, and, therefore, the applicants be released on bail.
- 6) On the other hand, learned counsel for State opposes the bail applications.
- 7) Heard, learned counsel for the parties.
- 8) In the totality of the facts and circumstances of the case, the nature of allegation levelled against the applicants, the detention period of the applicants who are 21 & 22 years old, there is no criminal antecedent of the applicants, there is no apprehension of the accused/applicants tampering with the prosecution evidence or absconding as admitted by both the counsels, charge-sheet has already been filed and due to COVID-19 situation conclusion of trial may take some time, therefore, without commenting anything on the merits of the case, the applications are allowed.
- 9) It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.

1,00,000/- each to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- (a) 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 from disclosing such fact to the Court.
- (b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (c) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (d) they shall not involve themselves in any offence of similar nature in future.
- (e) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Ruchi