

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1110 of 2020**

1. Mohd. Neyaj Mansuri S/o Late Mustafa Mansuri Aged About 32 Years R/o Village Gutrapara Mayapur Police Station And Tehsil Ambikapur District Surguja Chhattisgarh
2. Mohd. Seraj Mansuri S/o Late Mustafa Mansuri Aged About 22 Years R/o Village Gutrapara Mayapur Police Station And Tehsil Ambikapur District Surguja Chhattisgarh
3. Mohd. Meraj Mansuri S/o Late Mustafa Mansuri Aged About 20 Years R/o Village Gutrapara Mayapur Police Station And Tehsil Ambikapur District Surguja Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Applicants	:	Shri Shakti Raj Sinha, Advocate
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****07/01/2021**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.362/2020 registered at Police Station – Ambikapur, District – Surguja CG) for alleged commission of offences under Section 294, 323, 326, 34 of IPC.
2. Prosecution case is that the applicants assaulted the victim sustaining injury and there is one grievous injury in a part of the cornea in the right eye.
3. Learned counsel for the applicants made sole submission that the entire case of the prosecution if taken as it is, the allegation of commission of offence under Section 326 IPC is not made out because the allegation is of assault by hands, fists and belt. It is argued that the belt is not a weapon or means as has been described in Section 326

of IPC. Therefore, even if it is accepted that a grievous hurt has been caused, in the absence of weapon or means specified in Section 326 of IPC having been used for commission of offence, scope and ambit would not travel beyond Section 325 of IPC which is bailable in nature.

4. On the other hand, learned State counsel would submit that the use of belt to give assault while giving assault by hands and fist if taken together makes out a case of causing grievous hurt by means and report states that one cornea of the eye has been damaged, *prima facie* case of 326 IPC is made out.

5. On *prima facie* considerations, if the entire case of the prosecution is taken as it is, the allegation is of assault by hands, fist and belt causing injury on the part of the eye. Considering that the assault has been caused by hands, fists and belt, there is considerable force in the submission of learned counsel for the applicants that offence under Section 326 IPC, is not *prima facie* made out. Therefore, I am inclined to protect the applicants by giving anticipatory bail because in the present case, even if it is held to be a case of assault, it would be bailable in nature.

6. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one local surety for the like sum to the satisfaction of the arresting officer and they shall abide by all the following terms and conditions:-

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the Trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge