

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5970 of 2021

1. Wasim Khan, S/o Jamil Khan, Aged About 23 Years,
2. Mohammad Mustkim@ Mussu, S/o Abdul Jakir, Aged About 23 Years,
3. Sahil Shekh, S/o Sadik Shekh, Aged About 20 Years,

All are R/o Risai Para, Nearby Tilak Hospital, Police Station City Kotwali, Dhamtari, District- Dhamtari, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh, Through- Station House Officer, Police of Police Station City, Kotwali Dhamtari, District- Dhamtari, Chhattisgarh.

---- Non-Applicant

MCRC No. 6388 of 2021

- Shekh Farid @ Raja, S/o Shri Shekh Sakeel, Aged About 30 Years, R/o. Nayapara Ward Dhamtari, Thana, Tahsil and District- Dhamtari, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- the Station House Officer, Police Station City Kotwali Dhamtari, District- Dhamtari, Chhattisgarh.

---- Non-Applicant

For Applicants	: Shri Anil Gulati, Shri Sunil Sahu & Shri Sumit Shrivastava, Advocates
For Non-Applicant/State	: Shri Priyanshu Gupta, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

23.09.2021

- 1) Since both these cases arise out of same crime number, they are being disposed of by this common order.

- 2) The applicants have preferred these First Bail Applications under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 02.07.2021 & 15.07.2021 in connection with Crime No. 255/2021, registered at Police Station- City Kotwali, Dhamtari (C.G.) for the offence punishable under Sections 294, 307, 323, 506, r/w 34 of IPC.
- 3) Case of the prosecution, in brief, is that complainant Phanendra Goutam lodged report on 02.07.2021 in police station to the effect that on 01.07.2021 when his son/victim Himanchal Goutam @ Chintu did not return home in time, he inquired about him and made a call to him. The victim informed the complainant that due to old enmity, the present applicants who are resident of same colony of the victim, are assaulting him at Kodhumal Dharmashala, thereafter, the complainant rushed toward the place of occurrence and saw the present applicants armed with bat with spiked wire with around it, iron rod & Knife abusing his son/victim filthily, giving threat of life assaulted him with the said weapons as a result of which victim sustained injuries.
- 4) Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question. Learned counsel for the applicants further submits that applicant Shekh Farid @ Raja has two criminal antecedents but he is acquitted in the both the cases, rest of the applicants have no criminal antecedents. Charge-sheet has already been filed, there is no likelihood of the their tampering with the prosecution evidence or absconding and they are in jail since 02.07.2021 & 15.07.2021 and due to Covid-19 pandemic, trial is likely to take some time for disposal. Therefore, the applicants be released on bail by this Court.
- 5) On the other hand, learned counsel for the Non-applicant/State vehemently opposes the bail applications.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicants, nature of injuries sustained

by the complainant, no bony injury found on the body of the victim, charge-sheet has already been filed, the detention period of the applicants, who are 20, 23 & 30 years old, applicant Shekh Farid @ Raja in MCRC No. 6388 of 2021 has two criminal antecedents but he has been acquitted in both the cases, the fact that rest of the applicants have no criminal antecedents, there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by both the counsel and due to COVID-19 pandemic conclusion of trial may take some time, without commenting anything on merit of the case, the applications are allowed.

7) 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