

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 6458 of 2021

1. Mustak Khan S/o Subhan Khan, aged about 21 years,
2. Mahboob Khan S/o Subhan Khan, aged about 19 years,

Both are R/o Ward No. 12, Bairagpara, Police Station – Pandariya, District Kabirdham (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, Through – Station House Officer, Police Station – Pandariya, District Kabirdham (C.G.)

---- State/Non-Applicant

For Applicants	:	Shri Dharmesh Shirvastava, Advocate
For Non-Applicant/State	:	Ms. Deepti Shukla, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

22.09.2021

1. The applicants have preferred this first bail application under Section 439 of Cr.P.C. as they are in jail since 06.11.2020 in connection with Crime No. 222/2020 registered in Police Station- Pandariya, District Kabirdham (C.G.), for the offence punishable under Section 307/34 of IPC.
2. Allegation against the present applicants is that on 06.11.2020 at about 08:30 AM they alongwith other co-accused persons committed *maarpit* with complainant Mahmuda Bi over land dispute, as a result of which complainant sustained injuries over head, ring finger of left hand, fracture on little finger and blood was oozing out of ear. On report being lodged to the above effect, offence have been registered against the applicants and other co-accused.
3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question, the applicants have no criminal antecedents, there is no likelihood of the applicants tampering with the prosecution evidence or absconding, they are in jail since 06.11.2020, charge-sheet has already been filed and due to Covid-19 pandemic, trial is likely to take some time for its final disposal. Therefore, the applicants be

released on bail by this Court. He also submits that co-accused namely Shabina & Sakunat Bi have already been granted regular bail by this Court vide order dated 17.08.2021 passed in M.Cr.C. No. 5494 of 2021.

4. On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that there is no mention about the criminal antecedents of the present applicants in the trial Court order.
5. Considering the facts and circumstances of the case, the nature of dispute giving rise to the incident, the nature of injury allegedly caused by the applicants, the injured was discharged from Hospital within 5 days, in particular the detention period of the applicants who are 19 & 21 years old, the fact that there is no mention about the criminal antecedents of the applicants in the trial Court order and there is no likelihood of the 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 pandemic, conclusion of trial may take some time, further that the co-accused persons have already been granted regular bail by this Court, without commenting anything on merits of the case, the bail application is allowed.
6. It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail, on following conditions :-
 - i. 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/her from disclosing such fact to the Court.
 - ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - iii. they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
 - iv. they shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
 - v. they shall not involve themselves in any offence of similar nature in future.

7. 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 nature of offence.

Sd/-
(Gautam Chourdiya)
Judge

vatti