

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7574 of 2021**

1. Bhima, S/o Shri Fandar Dewaar, Aged About 25 Years, R/o Village Dongargaon, P.S. Dongargaon, District- Rajnandgaon, Chhattisgarh
2. Devkaran Dewaar S/o Shri Devanand Dewaar Aged About 23 Years R/o Village Dongargaon, P.S. Dongargaon, District Rajnandgaon (C.G.)cc, Chhattisgarh
3. Shiva, S/o Shri Fandar Dewaar Aged About 23 Years R/o Village Dongargaon, P.S. Dongargaon, District- Rajnandgaon, Chhattisgarh
4. Devkumar Dewaar, S/o Shri Devanand Dewaar, Aged About 28 Years, R/o Village Dongargaon, P.S. Dongargaon, District- Rajnandgaon, Chhattisgarh
5. Raj Dewaar, S/o Shri Dharmendra Dewaar, Aged About 20 Years, R/o Village Dongargaon, P.S. Dongargaon, District- Rajnandgaon, Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through- The Station House Officer, P.S. Dongargaon, District Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	Mr. S. S. Baghel, Advocate
For Respondent	Mr. Sudhir Sahu, PL

Hon'ble Justice Shri Parth Prateem Sahu**Order On Board****01/12/2021**

1. Applicants have filed this second bail application under Section 439 of CrPC for grant of regular bail, as they have been arrested in connection with Crime No.128/2020, registered at Police Station Dongargaon, District Rajnandgaon (C.G.) for the offence punishable under Sections 147, 148, 149, 307, 34 of IPC.

2. The first bail application of the applicants was dismissed on merits vide order dated 08.10.2020 in MCRC No.5479/2020.
3. Case of prosecution is that on 22.07.2020, there was engagement ceremony in the house of Devanand Dewaar. In night, family members and relatives of complainant were celebrating function, in which they were also screaming. Applicants, who are neighbors of complainant, objected shout and screaming. While raising objection, Manoj became aggressive and some quarrel took place between Manoj and applicants and allegedly Manoj was assaulted, upon which Dharmendra and Suraj also came there, intervened quarrel and fight, upon which applicants armed with club, knife and axe assaulted complainant party, in which Dharmendra, Manoj and Suraj suffered grievous injuries and other persons suffered same injuries. The incident was reported to concerned police station, based on which aforementioned crime was registered.
4. Mr. Baghel, learned counsel for the applicants, would submit that the applicants are in jail for last more than one year. From allegation levelled in the FIR and the statement recorded under Section 161 of CrPC itself, it is clear that incident was not an organized incident but it occurred for the reason that complainant's family were screaming and shouting at night while celebrating engagement ceremony. He would also submit that injured persons have already been discharged from hospital without any complication within few days of their admission. It is also pointed out that prosecution witnesses are not turning up for their examination before Trial Court as appearing from the order sheet dated 09.04.2021 and bailable warrant is also issued by Trial Court for appearance of witnesses.

He would further submit that as per instructions given by counsel on behalf of applicants before Trial Court, witnesses are still not turning up for their examination and none of the witnesses has been examined till date, hence applicants may be enlarged on regular bail.

5. Mr. Sudhir Sahu, learned State counsel, would oppose the submission of learned counsel for the applicants and would submit that applicants with common intention armed with weapons like club, knife and axe have assaulted complainant family members, upon which three family members of complainant have suffered grievous injuries, two of them suffered injuries on their head, hence applicants are not entitled for benefit of bail.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegation, the manner in which incident took place, applicants are in jail since 27.07.2020 i.e. for last more than a year and submission of learned counsel for the applicants that prosecution witnesses are not turning up for their examination before Trial Court, without commenting anything on the merits of the case, I am inclined to release the applicants on bail.
8. Accordingly, the bail application is allowed. It is directed that the applicants shall be released on regular bail upon each of them furnishing a personal bail bond for a sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Trial Court on the conditions that:-

- (a) The applicants shall appear before the Trial Court regularly on each and every date unless exempted from appearance.
- (b) The applicants shall not, in any manner, tamper with the prosecution witnesses.
- (c) If the applicants 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

Nirala