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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1251 of 2021

- Shubhankar Dwivedi, S/o Shri Gyanprakash Dwivedi, Aged About 24 Years, R/o Dumartalab Raipur, District- Raipur, Chhattisgarh.
---- Applicant

Versus

- State of Chhattisgarh, Through- The Sho Police Station Purani Basti, District- Raipur, Chhattisgarh. **---- Non-Applicant**

MCRCA No. 1254 of 2021

- Vikas Mittal, S/o Vasudev Mittal, Aged About 26 Years, R/o Balveer Nagar, Raipur, Tahsil and District- Raipur, Chhattisgarh.
---- Applicant

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station- Purani Basti, Raipur, District- Raipur, Chhattisgarh. **---- Non-Applicant**

MCRCA No. 1279 of 2021

- Shubham Agrawal, S/o Shri Rajesh Agrawal, Aged About 28 Years, R/o Nayapara, Tahsil and District- Raipur, Chhattisgarh.
---- Applicant

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station Purani Basti, Raipur, District- Raipur, Chhattisgarh. **---- Non-Applicant**

MCRCA No. 1255 of 2021

- Shambhav Shah (wrongly mentioned as Sambhu Shah in trial Court order), S/o Shri Chandresh Shah, Aged About 22 Years, R/o Jorapara, Jawahar Nagar, Raipur, District- Raipur, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police

Station Purani Basti, District- Raipur, Chhattisgarh.

---- Non-Applicant

MCRC No. 7827 of 2021

- Bajrang Singh Dhruv, S/o Madhurav Dhruv, Aged About 41 Years, R/o Gaurachowk, Milan Chowk Sanjay Nagar, Tikrapara, Raipur, District- Raipur, Chhattisgarh. ---- Applicant

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station Purani Basti Raipur, District- Raipur, Chhattisgarh.

---- Non-Applicant

For Applicants : Shri Prafull N. Bharat, Senior Advocate
alongwith Shri Anil S Pandey, Shri Vinay
Pandey, Shri Vivek Sharma, Shri Sangharsh
Pandey, & Shri A. S. Kachwaha, Advocates

For Non-Applicant/State : Shri B. P. Banjare, Dy. G.A.
Shri Roshan Dubey, P. L.

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

06.10.2021

- 1) Since all these cases arise out of same crime number, they are being disposed of by this common order.
- 2) MCRC No. 1251 of 2021, MCRC No. 1254 of 2021, MCRC No. 1279 of 2021, MCRC No. 1255 of 2021 have been filed by the applicants under Section 438 of Code of Criminal Procedure, 1973 for grant of anticipatory bail as they apprehends their arrest in connection with Crime No. 234/2021 registered at Police Station Purani Basti Raipur, District- Raipur (C.G.) for the offence punishable under Sections 147, 186, 294, 323, 506, 332, 353, 355 & 452 of IPC.
- 3) MCRC No. 7827 of 2021 has been filed by the applicant under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 07.09.2021 in connection with Crime No.234/2021

registered at Police Station Purani Basti Raipur, District-Raipur(C.G.) for the offence punishable under Sections 147, 186, 294, 323, 506, 332, 353, 355 & 452 of IPC.

- 4) Case of the prosecution, in brief, is that on complaint of number of persons, police called Ankush Beriyakar, Harish Sahu in police station for interrogation on 05.09.2021 at about 11.30 am. The applicants alongwith others, who were total 7 in numbers, entered the police station and chamber of the Station House Officer, assaulted Ankush Beriyakar, Harish Sahu & Prakash Masih and when the police personnel tried to intervene, they were also assaulted. The initial FIR was registered for the offence under Sections 147, 294, 323 & 506 of IPC and subsequently offence under Sections 452, 186, 353 of IPC were also added. Co-accused Sanjay Singh & Manish Sahu apprehending their arrest filed application for grant of anticipatory before the Court below which came to be rejected and application under Section 439 of CrPC filed by applicant Bajaranj Singh was also rejected by impugned order.
- 5) Shri Prafull Bharat, learned Senior counsel submits that when the private persons lodged complaint against those persons who indulged in illegal conversion of religion of poor people by organizing the meeting, Ankush Beriyekar, Prakash Masih & Harish Sahu were called by the police in police station Purani Basti, Raipur. Applicants, who are named in the FIR, were also present there during the course of the interrogation by the Station House Officer. At that time, some hot talk took place between the applicants and complaint party who were present there for lodging of the report against the applicants; and some altercation took place between them. The applicants have not forcefully entered the police station, they were present there because they were also called by the police party. The allegation of forcible entry in the police station by the applicants is absolutely false because in the FIR and in the complaint itself it is mentioned that about 80 persons were standing outside the police station but as

per allegations, only seven persons entered the police station, which cannot be accepted to be correct because when mob of 80 persons was present and some of them made attempt to enter, then all the persons should have entered the police station. He further pointed out that when the FIR was lodged initially, the offence under Sections 147, 294, 323 & 506 of IPC was registered and later on, on the pressure of other influential persons offence under Sections 452, 186, 332, 353, 355 of IPC were also registered. He further submits that in view of the nature of allegations and contents of the FIR, no custodial interrogation would be required and offences are triable by the Magistrate, hence, the applicants may be enlarged on bail.

- 6) On the other hand, Shri B. P. Banjare & Shri Roshan Dubey learned State counsel vehemently oppose the bail applications and would submit that when the complainant Ankush Beriyekekar, Prakash Masih & Harish Sahu were interrogated by the SHO in the chamber of SHO, the present applicants alongwith few others entered the police station forcefully and thereafter in the chamber of SHO, started assaulting the complainant Ankush Beriyekekar, Prakash Masih & Harish Sahu, when the police party tried to intervene, they were also assaulted by them and sustained injuries. They further submit that in the case diary, the photographs of the incident are also mentioned, which shows the involvement of the applicants in the instant crime. However, they also submitted that as per allegations, outside the police station about 80 persons were standing and raising slogans and seven persons who were part of the mob forcefully entered the police station and assaulted the complainant & police party and caused hindrance in discharge of their official duties. They submit that statements of SHO and few other police personnel were recorded on the same day and based on these statements, the offence under Section 452, 186, 332, 353, & 355 of IPC were added. However, upon putting specific query, learned State counsel replied as to why the accused persons, 7 in numbers entered the

police station and chamber of SHO in the police station forcibly, were not arrested instantly at the time of commission of the aforesaid offence, no reason is mentioned in the case diary for that.

- 7) I have heard learned counsel for the parties.
- 8) Taking into consideration the nature of allegation made against the applicants, the facts and circumstances of the case, the documents placed on record, the allegation is that when the complainant Ankush Beriyeekar with Harish Sahu & Prakash Masih came to police station, mob of about 80 persons standing outside the police station raising slogan against them. It is not the case of prosecution that all the 80 persons have made an attempt to entered the police station but the allegation is that only seven persons out of them have committed offence when the statement of the Station House Officer and other police officer have been recorded on same day i.e. 05.09.2021, but offence under Sections 186, 452, 332, 353 & 355 was not registered initially further the 7 accused persons who entered the chamber of the SHO were not arrested by the police and they were let to go without mentioning any of the reason in case diary, without commenting anything on merits of the case, I am inclined to allowed the bail applications filed under Section 438 & 439 of CrPC by the applicants.
- 9) Accordingly, the applications i.e. **MCRCA No. 1251 of 2021, MCRCA No. 1254 of 2021, MCRCA No. 1279 of 2021, MCRCA No. 1255 of 2021** are allowed and it is directed that in the event of arrest of each of the applicants in connection with the crime in question (**234/2021**), they shall be released on anticipatory bail by the Officer arresting them on their executing a personal bond for a sum of Rs. 25,000/- with one surety each in the like sum to the satisfaction of the concerning arresting Officer. The Applicants shall abide by the following conditions:-

- i) that the applicants shall make themselves available for interrogation before the investigating Officer as and when required;
 - ii) that the applicants 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 or to the 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 them by the said Court till disposal of the trial.
- 10) Accordingly, the bail application **MCRC No.7827 of 2021** is also allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs. 50,0000/- with one surety in the like sum to the satisfaction of the trial Court on the conditions that:-
- i) he shall appear before the trial Court regularly on each and every date, unless exempted from appearance,
 - ii) the applicant shall not, in any manner, tamper with the prosecution witnesses,
 - iii) if the applicant is found involved in similar offence in the further, it will be open for the State to apply for cancellation of Bail.

In the result: all the bail applications filed under Section 438 & 439 of CrPC are allowed on above terms & conditions.

Certified copy as per rules.

Sd/-
(**Parth Prateem Sahu**)
Judge

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