

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 120 of 2021**

- Kunal Kanhaiya Son of late Jugal Kishore, aged about 33 years, R/o Harijan Para, Siddharth Nagar, District Durg (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : The Station House Officer, Police Station Lalbag, District Rajnandgaon (C.G.)

---- State/Non-applicant

And**M.Cr.C. No. 532 of 2021**

- Niken Mahanand, S/o Shri Murari Mahanand, Aged about 31 years, R/o Sidharth Nagar, Nera Sanichari Bazar, P.S. Kotwali, Tahsil & District Durg (C.G.)

---- Applicant

Versus

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

---- State/Non-applicant

For Applicant	:	Shri Anil Gulati, Advocate appears in M.Cr.C. No. 120 of 2021
For Applicant	:	Shri Ishan Verma, Advocate appears in M.Cr.C. No. 532 of 2021
For Non-Applicant/State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General appears in both the applications

Hon'ble Shri Justice Gautam Chourdiya, J**Order on Board****16.03.2021**

1. As both the above first bail applications under Section 439 of Cr.P.C. preferred by the applicants arise out of the same crime number i.e. 408/2020 registered in Police Station- Lalbag, District Rajnandgaon (CG) for the offence punishable under Section 307/34 of IPC, they are being disposed of by this common order.
2. Allegation against the above present applicants is that on 20.10.2020 at about 17:00 hours in furtherance of their common intention while applicant

Kunal Kanhaiya was assaulting the complainant by means of knife, applicant Niken Mahanand had caught hold of complainant from back side. Due to assault made by applicant Kunal Kanhaiya, complainant sustained injuries on his stomach, back side & right hand.

3. It is stated by learned counsel for the State that there are five criminal antecedents of applicant Kunal Kanhaiya and no criminal antecedent of applicant Niken Mahanand.
4. In view of the above submission made by learned counsel for the State, Shri Anil Gulati, Advocate, appearing in M.Cr.C. No. 120 of 2021, seeks to withdraw the bail application on behalf of applicant Kunal Kanhaiya with liberty to file a fresh application as and when occasion arises.
5. Accordingly, the bail application (M.Cr.C. No. 120 of 2021) filed on behalf of applicant Kunal Kanhaiya is dismissed as withdrawn with the liberty as stated above.
6. Now this Court considers the application (M.Cr.C. No. 532 of 2021) filed on behalf of applicant Niken Mahanand.
7. Shri Ishan Verma, learned counsel for applicant Niken Mahanand submits that the applicant has been falsely implicated in this crime and there was no intention on his part to attempt to commit murder of the complainant. Learned counsel for the applicant also submits that the applicant who is 31 years old is languishing in jail since 24.10.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time. Therefore, applicant Niken Mahanand be released on bail
8. On the other hand, learned counsel for the State opposes the bail application of applicant Niken Mahanand.
9. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, there is no specific allegation of assaulting on the complainant by applicant Niken Mahanand by knife, the only allegation against him is of holding the complainant from back side, further considering

the detention period of applicant who is 31 years old and the fact that charge-sheet has already been filed and conclusion of the trial may take some time, he has no criminal antecedent as admitted by both the counsel, there is no apprehension of the applicant tampering with the evidence or absconding, without expressing any opinion on merits of the case, the bail application (M.Cr.C. No.532 of 2021) filed on behalf of applicant Niken Mahanand is allowed.

10.It is directed that in the event of applicant Niken Mahanand executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- i. he 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.
- ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- iv. he shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Bench.

11.In the result, M.Cr.C. No. 120 of 2021 is dismissed as withdrawn and M.Cr.C. No. 532 of 2021 is allowed on the above terms and conditions.

Sd/-
(Gautam Chourdiya)
Judge