

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.8933 of 2021**

1. Abhishek Chauhan, aged about 20 years, S/o Sri Ranjit Chauhan, R/o Tarbahar Construction Colony, Police Station Tarbahar, Bilaspur, Tahsil and District Bilaspur (CG)
2. Rishabh Bairital, aged about 18 years, S/o Shri Vishal Bairital, R/o New Loco Colony, Torva, Police Station Sirgitty, Bilaspur, Tahsil and District Bilaspur (CG)

---- Applicants (In Jail)**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station Sirgitty, District Bilaspur (CG)

....Non-applicant

For Applicant	:	Mr. B.K. Chakraborty, Advocate.
For Non-applicant	:	Mr. Sudhir Sahu, Panel Lawyer
For Complainant	:	Mr. Tulesh Sahu, Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****10.12.2021**

1. This is first application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicants as they are in custody since 8.10.2021 in connection with Crime No.552/21 registered at Police Station Sirgitty, District Bilaspur (CG) for commission of offence punishable under Sections 147, 148, 149, 307, 427 & 506 of IPC.
2. Case of prosecution is that in the morning of 20.9.2021 when complainant was travelling on his motorcycle, some dispute took place between complainant, accused Ismial and Santu Tiwari. Thereafter, on 6.10.2021 when complainant and his father were working in their salon, accused Ismial and Santu Tiwari came there in aggressive mood, called complainant outside shop, to which father of complainant intervened and thereafter Ismial and Santu went away. On the same day at about 8:30 p.m., Ismial, Santu armed with sword etc. came to the house of complainant; started beating doors of house of complainant and when complainant came out of his house, they assaulted him by sword. Complainant somehow

managed to escape sword blow but suffered injury over his head. Incident was reported to concerned police station based upon which aforementioned crime is registered against applicants and nine others. Applicants were arrested on 8.10.2021.

3. Mr. B.K. Chakraborty, learned counsel for applicants would submit that applicants have not committed any offence as alleged against them and they have been falsely implicated. At no point of time applicants were present on spot, either in morning or night of 6.10.2021, as alleged. Applicants have been made accused in crime in question only on the basis of memorandum statement of co-accused Ismial & Santu Tiwari. Applicants are 18 & 20 years old respectively and they are students. There is no other criminal antecedent against applicants, hence, they may be enlarged on regular bail.
4. Per contra, Mr. Sudhir Sahu, learned Panel Lawyer for the State opposes submissions of learned counsel for applicants and submits that there is specific allegation against accused Ismail, Santu Tiwari and others that they armed with sword, stick etc. came to house of complainant in night at about 8:30 p.m., on complainant's coming out of house, they assaulted him. On being asked, learned State Counsel would submit that complainant did not suffer any incised wound but for swelling on head. He further stated that applicants have been made accused based on memorandum statement of co-accused Ismial and Santu. On putting specific query with regard to criminal antecedents of applicants, he submits that there is no mention of any criminal antecedent against applicants in case diary.
5. Mr. Tulesh Sahu, learned counsel appearing on behalf of complainant submits that complainant is not having any objection in grant of regular bail to applicant.
6. I have heard learned counsel for the parties.
7. Taking into consideration facts and circumstances of case,

nature of allegations; the fact that applicants are not named in FIR; applicants are 18 & 20 years old; there is no other criminal antecedent against them and they are in custody since 8.10.2021, without commenting anything on merits of case, I am inclined to enlarge applicants on regular bail. Accordingly, bail application is allowed and it is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to satisfaction of trial Court concerned on the conditions that;

- a) they shall appear before the trial Court concerned regularly on each & every date unless exempted from appearance.
- b) they shall not, in any manner, tamper with prosecution witnesses.
- c) If applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-