

# Hemendra @ Himendra Rajput vs State Of Chhattisgarh on 29 November, 2024

**Author: Ramesh Sinha**

**Bench: Ramesh Sinha**

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2024:CGHC:47090

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 8320 of 2024

1. Hemendra @ Himendra Rajput S/o Satam Singh Aged About 26 Years R/o Rampur Ward, P.S. City Kotwali (Wrongly Menioned As Kotawwali In The Impugned Order), Dhamtari, Tehsil And District- (C.G.).
2. Omkar, S/o Ganesh Ram Aged About 21 Years R/o Rampur Ward, P.S. City Kotwali (Wrongly Menioned As Kotawwali In The Impugned Order), Dhamtari, Tehsil And District- (C.G.).
3. BuntY Yadav S/o Shyamlal Yadav Aged About 24 Years R/o Rampur Ward, P.S. City Kotwali (Wrongly Menioned As Kotawwali In The Impugned Order), Dhamtari, Tehsil And District- (C.G.).
4. Dipesh Dhruv, S/o Siyaram Dhruv Aged About 21 Years R/o Rampur Ward, P.S. City Kotwali (Wrongly Menioned As Kotawwali In The Impugned Order), Dhamtari, Tehsil And District- (C.G.).

... Applicants

versus

- State Of Chhattisgarh Through- Station House Officer, Police Station- City Kotwali District- Dhamtari ( C.G.).

... Non-Applicant

For Applicant : Mr. Prasoon Agrawal, Advocate

For Non-Applicant : Ms. Supriya Upasane, Government Advocate

Hon'ble Mr. Ramesh Sinha, Chief Justice  
Order on Board

29.11.2024

1. This is the first bail application filed under Section 483 of the  
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Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the applicant who has been arrested in connection with Crime No. 368/2024 registered at Police Station City Kotwali, District Dhamtari (C.G.) for the offence punishable under Sections 296, 115(2), 118(1), 3(5) of Bhartiya Nyaya Sanhita, 2023 (Section 294, 323, 326, 24 Indian Penal Code, 1860).

2. Case of the prosecution, in brief, is that a report has been lodged by the complainant stating that at around 10 PM he had gone to Rambag Chowk to eat momos and while returning he was standing near the flower shop, at that time the applicants on an old rivalry started abusing the complainant wherein the applicant Hemendra hit him with a sharp object which resulted in injury on back side of his head and also caused stabbed injuries to the victim therefore, the prosecution has registered the above mentioned offences of the Bhartiya Nyaya Sanhita, 2023 against the present applicants.
3. Learned counsel for the applicant submits that the applicants have not committed any offence and they have been falsely implicated in offence in question. He further submits that the applicant No. 1 said to have been assaulted the victim with pointed weapon and whereas the applicant Nos. 2 to 4 have said to be assaulted the victim with kicks and fists on account of which the injured has

received injuries by the pointed weapon, but the injuries were found to be simple in nature and so far as the criminal antecedents

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of the applicants are concerned, the applicant No. 1 has 10 criminal antecedents, applicant No. 2 and 3 have 2 criminal antecedents (each) and applicant No. 4 has 5 criminal antecedents for which explanation has already been given in the present bail application. The applicants are in jail since 09.10.2024, charge-sheet has been filed and the trial is likely to take some time for its conclusion. Therefore, he prays for grant of bail to the applicant.

4. On the other hand, learned State Counsel appearing for the respondent/State opposes the bail application and submits that

the charge-sheet has been filed in the present case. He further submits that the applicants have assaulted the complainant on account of which he received injuries on his head. However, injuries were found to be simple in nature. He further submits that the applicants have criminal antecedents, which has been mentioned in his bail application. Hence, they are not entitled to be released on bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case, nature and gravity of offence, period of detention of the applicant since 09.10.2024, the fact that the applicants are said to have assaulted the injured who has suffered injuries on his head and are found to be simple in nature. Also considering the fact that the applicants have criminal antecedents which has been explained in his bail application and in the present case, charge-sheet has been filed before the competent Court, this Court is of the view that the applicants are entitled to be released on bail in this case.

7. Let the Applicants - Hemendra @ Himendra Rajput, Omkar, Bunty Yadav and Dipesh Dhruv, involved in Crime No. 368/2024 registered at Police Station City Kotwali, District - Dhamtari (C.G.) for the offence punishable under Sections under Sections 296, 115(2), 118(1), 3(5) of Bhartiya Nyaya Sanhita, 2023 (Section 294, 323, 326, 24 Indian Penal Code, 1860), be released on bail on their furnishing a personal bond with two sureties each in the like sum to the satisfaction of the Court concerned with the following conditions:-

(i) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel.

In case of their absence, without sufficient cause, the trial court may proceed against them under Section 269 of Bharatiya Nyaya Sanhita.

(iii) In case, the applicants misuses the liberty of bail during trial and in order to secure their presence, proclamation under Section 84 of BNSS. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under Section 209 of the Bharatiya Nyaya Sanhita.

(iv) The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case,

(ii) framing of charge and (iii) recording of statement under Section 351 of BNSS. If in the opinion of the trial court absence of the applicants are deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

8. Office is directed to send a copy of this order to the trial Court for necessary information and compliance forthwith.

Sd/-

(Ramesh Sinha) Chief Justice Manish