

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 769 of 2016**

Lokesh Garg S/o Late Madan Lal Garg Caste Agrawal, R/o Raipur
Bhathapara Chowk Tikrapara, Raipur, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through The Station House Officer, Police
Station Bodhghat, District Jagdalpur, Chhattisgarh.

-----Respondent

For Petitioner:	Shri Pawan Kesarwani, Advocate.
For Respondent/State:	Shri Vaibhav A. Goverdhan, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

22.7.2016

1. The present Petition has been filed under Section 482 Cr.P.C seeking for recalling of the order dated 3.8.2015 passed by the JMFC, Bastar, Jagdalpur arising out of Crime No.272/2011, P.S Bodhghat in Criminal Case No.382/2013, whereby the bail earlier granted to the Petitioner for the offence under Sections 294 and 506-B IPC has been seized and a warrant of arrest has been issued for securing his presence.

2. Learned Counsel for the Petitioner submits that the dispute in the present case is between two real brothers and that the present Petitioner had been appearing before the Court below regularly. However, in between, due to some illness, he could not appear on a particular day i.e. 3.8.2015 and on which date, bail granted to him has been seized and a warrant of arrest has also been issued against him. He therefore prays for recalling of the said order and undertakes that he shall enter appearance before the Court below on all the dates henceforth granted by the Court below and would cooperate

for the speedy disposal of the trial.

3. Learned State Counsel submits that since it is a case where the present Petitioner has committed default of appearance, he does not deserve sympathy.

4. Considering the total facts and circumstances of the case, particularly taking note of the fact that the present Petitioner is a physically handicapped person and is also suffering from severe kidney ailment requiring dialysis, this Court is of the opinion that subject to the Petitioner's entering appearance before the Court below on 24.8.2016, the order dated 3.8.2015 and also subsequent order pursuant thereto seeking for arrest of the Petitioner shall stand recalled. The Court below shall further proceed with the trial from the stage for which it was otherwise fixed on 3.8.2015. The Petitioner is expected to enter appearance on all the dates which shall thereafter be provided by the Trial Court.

5. With the above observations, the instant Cr.M.P is accordingly disposed of.

Sd/-
(P. Sam Koshy)
JUDGE