

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5787 of 2017

- Lakhan Lal S/o Rameshwar Chandra, Aged About 59 Years R/o Village Barbhatha, Police Station And Thasil Dabhra, District Janjgir Champa (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station And Thasil Dabhra, District Janjgir Champa (Chhattisgarh)

---- Non-applicant

For Applicant	: Shri Harishankar Patel, Advocate.
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

13.10.2017

1. Heard the matter finally.
2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No. 114/2017, registered in Police Station Dabhra, District Janjgir-Champa (C.G.) for the offence punishable under Sections 186, 332, 353, 342, 294, 34 of Indian Penal Code.
3. Learned counsel for the applicant would submit that the applicant has been arrested on 13.08.2017. After investigation

police had filed Charge-sheet against the applicant, which is registered as Criminal Case No. 486/2017 presently pending before Judicial Magistrate First Class Dabhra, District – Janjgir – Champa. In the said matter co-accused Murari Lal @ Golu Chandra and Khilesh Chandra have been shown as absconding and both the absconding co-accused have preferred MRCRA No. 812/2017 and on 12.10.2017 at the request of learned counsel of the said applicants the matter has been disposed of without any appreciation on its merit reserving liberty to surrender before the concerned criminal Court and to file an application under Section 437 of Cr.P.C. and said application may be heard and disposed of as early as possible preferably on the same day. Learned counsel would submit that the applicant will not commit any offence and as per allegation surfaced and the charge-sheet the present applicant and Murari Lal @ Golu Chandra and Khilesh Chandra were transporting liquor illegally in a motor cycle. When Constable Umesh attempted to stop them for investigation, all the three accused confined him gave obscene words obstructed to discharge his official duties and also assaulted by hand and fists, leg and by slipper and caused him simple injuries. The said constable Umesh received following injuries (i) Bruise over right eye, 2 x 1.5 cm. (ii) Bruise over left eye, 2.5 x 1.5 cm. (iii) Contusion over left side of the chest, 3 x 1.5 cm, injuries on right elbow 3.5 x 1.5, abrasion over left elbow, 1 x 0.5 x 1.cm (iv) Abrasion over left elbow, 1 x 0.5 x 1 cm. The applicant is in custody since long,

he will not commit any offence, the matter is triable by Judicial Magistrate First Class, he may be granted bail as the trial may take some time.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant and would submit that applicant is a habitual offender and following matters have been registered against the applicant.

Sl. No.	Complaint/Crime No.	Under Section
1.	349/90	341, 294, 147 of I.P.C.
2.	159/92	147, 148, 149, 294, 325 of I.P.C.
3.	1/92	110 Cr.P.C.
4.	158/95	147, 148, 294, 323, 325 of I.P.C.
5.	3/97	110 Cr.P.C.
6.	80/03	107, 116 (3) of Cr.P.C.
7.	5/03	110 Cr.P.C.
8.	11/04	107, 116 (3) of Cr.P.C.
9.	221/04	107, 116 (3) of Cr.P.C.
10.	322/04	107, 116 (3) of Cr.P.C.
11.	400/04	107, 116 (3) of Cr.P.C.
12.	339/05	107, 116 (3) of Cr.P.C.
13.	02/15	110 of Cr.P.C.
14.	436/15	107, 116 (3) of Cr.P.C.
15.	9/17	110 Cr.P.C.

Learned counsel would further submit that looking to the act of the applicant that he wrongfully confined the said constable and obstructed him to perform his official duties the instant MCRC may be dismissed.

5. Perused the entire material.
6. As the applicant is in custody for 2 months till date, charge-sheet has been filed, trial may take some time, as the other

co-accused has already surrendered before the said criminal Court, the injuries received by concerned constable Umesh were of simple in nature, though against the applicant many matters have been registered, out of which 12 matters were in relation to preventive proceeding, only three matters were under the penal provision, that too, more than 22 years ago, there is no any material to demonstrate whether the applicant has been ever convicted by any of the criminal Court, on consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that he may not commit any offence in future and shall remain peacefully in the society.

7. Consequently, the instant MCRC is hereby allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 1,00,000/- with two solvent sureties each of Rs. 50,000/-to the satisfaction of Judicial Magistrate First Class – Dabhra, District- Janjgir – Champa, for his appearance before the said Court as and when directed.
9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; (iv) the trial Court finds that the

applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Dabhra, District Janjgir - Champa, on every Monday at 11 am positively till trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent reason and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

11. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Judge