

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2208 of 2017

1. Balraj Banjare S/o A.R. Banjare, Aged About 29 Years, R/o Village Bhathri, Police Station Jarhagaon, District Mungeli, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station Nawagarh, District Bemetara, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Vivek Shrivastava, Advocate.

For Non-applicant/State – Shri N.K.Mehta, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

19-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit the applicant and two other co-accused are facing trial in Criminal Case No.230/2014 pending before the JMFC Bemetara, C.G. in connection with Crime No.165/2010 registered by Nawagarh police, District Bemetara, C.G. for the offence under Section 4, 6 and 10 of the C.G. Agricultural Cattle Preservation Act, 2004. He was granted bail by the trial Court and was facing trial. On 19-05-2015 he remained absent before the trial Court. The Trial Court issued warrant of arrest and ultimately on 09-07-2015 the Court declared him absconding, issued permanent warrant of arrest. In compliance of said warrant the applicant was arrested on 21 March, 2017 and till date for 30 days the applicant is languishing in jail. His application under Section 439 of the Cr.P.C. was rejected by the Sessions Judge Bemetara in Bail Petition No.75/17 dated 22-03-2017. Other co-accused Robin Banjare and Johan Das also failed to appear before the trial Court, they were granted bail again by the coordinate Bench of this Court in MCRC No.8247/2016 vide order dated 21-12-2016. The applicant shall now appear regularly and cooperate with the trial. He may be granted opportunity to remain

in bail during remaining trial.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that as the applicant remained absent during trial for about 1 year and 10 months which affected the trial, hence, as he misused the liberty, again bail may not be granted.

4. Perused the entire material.

5. Though the applicant was negligent by not appearing before the trial Court for 1 year and 10 months, but as the other co-accused granted bail again by the coordinate Bench of this Court, the applicant is in jail for 30 days since his arrest and with this he had tested the effect of non-appearance to some extent and as the applicant submitted that he will now appear regularly before the trial Court, I am inclined to grant one last opportunity to the applicant. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the Judicial Magistrate First Class Bemetara, C.G. for his appearance before the said trial Court as and when directed.

6. 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; and (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.

7. Further, the trial Court is directed to proceed against the present

applicant and his surety, if any, under the provisions of Section 446 and other provisions of Cr.P.C. for forfeiture and realization of bond and surety amount under the law, if not proceeded earlier. The Court below shall after registering the matter in accordance with rules dispose of those matter in connection with forfeiture of bond and surety and also proceed further in accordance with law under intimation.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE