

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4804 of 2017

- Niranjan Harpal S/o Parsuram Harpal, Aged About 40 Years, R/o Panchsheel Nagar Chowk Police Station Civil Line Raipur, District Raipur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Civil Line, District Raipur Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.K. Tulsyan, Advocate.

For Non-applicant/State – Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

04-09-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.406/2017 on 15-06-2017 by P.S. Civil Lines Raipur, Chhattisgarh for the offence under Section 295, 427 of the IPC. After investigation charge sheet been filed, which is presently pending before the CJM Raipur as Criminal Case No.4812/17. Learned counsel for the applicant would further submit that the applicant is first offender and as per the allegation, the applicant though of a different religion caused mischief, damage to the idol of a religion and also damaged photograph of deity installed in the shop of the complainant. Section 427 of the IPC is bailable, Section 295 of the IPC is non-applicant. The applicant is suffering with mental ailment and for the treatment he was admitted since 16 February 2017 till 9 March 2017 in a hospital for his treatment. After discharge the concerned physician recommended many medicines. Prima facie, it appears that he is suffering from mental ailment. He will not commit any offence in future. He may be granted bail during trial.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that looking to the facts surfaced and the act of the applicant, the applicant may provoke the feelings of members of one religion as the applicant does not belong to the said religion and the facts regarding ailment were not submitted during the investigation. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 2 months and 19 days till date, charge sheet has been filed, trial may take some time, looking to the facts regarding treatment and ailment of the applicant, it appears that prima facie he is suffering from some mental ailment, also there is no any earlier history for the said act, on consideration of the the entire facts, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. 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.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate Raipur, C.G. for his appearance before the said Court as and when directed till trial.

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. It is further directed that the applicant shall appear in person before the

IO/SHO/In-charge, as the case may be, of P.S. Civil Lines, Raipur, District Raipur, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of the said criminal case against him. If the applicant failed to mark his appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicant was not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicant shall stand cancelled by the trial Court without further reference to the Bench.

8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

9. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge