

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.1850 of 2017**

- Shubhash Dhimar S/o Late Goopal Dhimar Aged About 20 Years
R/o Saraswati Nagar Durg, Tehsil & District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate , District Durg,
Chhattisgarh.

---- Respondent

For Applicant	: Shri Avinash Chand Sahu, Advocate
For Respondent/State	: Shri UKS Chandel, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****10.4.2017**

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.759/2016 registered in Police Station City Kotwali, Durg for the offence punishable under Sections 294, 506B, 323, 34, 147, 149, 307 of the Indian Penal Code and under Sections 25/27 of the Arms Act, 1959.

3. Learned counsel for the applicant submits that the applicant along with five other accused persons have been arrested on 31.10.2016, out of which two were minor and charge sheet against the minor co-accused persons have been filed before Juvenile Justice Board, Durg. The police has filed charge sheet bearing Criminal Case No.606/2017 before Chief Judicial

Magistrate, Durg against present applicant and three other accused persons. Case of the present applicant is distinguishable from the case of other co-accused persons as the present applicant assaulted the complainants with hands and fists only. There is no criminal antecedent against the applicant, he will not commit any offence in future. Injured Neeraj Kandra was admitted in the hospital from 30.10.16 to 08.11.2016 and thereafter discharged from there as there was no further complication. Complainant Durgesh Kandra was discharged on the same day after his treatment. The applicant will not misuse the liberty, hence, he may be granted bail.

4. On the other hand, learned counsel for the State opposes the bail application and would submit that the police has not collected any material regarding antecedent of the applicant .

5. Perused the material.

6. On due consideration of the entire material, considering the totality of the facts and circumstances of the case, considering the fact that the applicant is in jail for more than five months and is a first offender, charge sheet has been filed, his role in the incident was that he assaulted the complainants by hands and fists, injured have already been discharged and the matter may take sometime of its conclusion, this Court is of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of Chief Judicial Magistrate, Durg 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; 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 the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE