

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1714 of 2017

1. Vishnu Gupta S/o Bandhu Gupta, Aged About 40 Years, Caste- Raoniyar, R/o Village- Injko, Thana and Tahsil - Pathalgaon, Civil & Revenue District- Jashpur, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through: Police Thana - Pathalgaon, District- Jashpur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Sanjay Agrawal, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

17-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant is facing trial in Criminal Case No.303/2011 (State V. Vishnu Gupta) pending before the JMFC Pathalgaon, District Jashpur, C.G. in connection with Crime No.99/11 for the offence under Section 420, 467, 468, 471, 34 of the IPC. Earlier, the applicant was granted bail by the Additional Sessions Judge Kunkuri on 12-12-2011 in bail petition No.238/11, prior to his release on bail the applicant was in jail for about 5 months and 11 days. After his release he was facing trial, but on 04-01-2016 he remained absent. The trial Court issued warrant of arrest, the trial Court also proceeded under Section 299 of the Cr.P.C. and issue permanent warrant of arrest. In compliance of said warrant issued by the trial Court, the applicant was arrested on 27-01-2017, till date, i.e., for about 2 months and 24 days the applicant is languishing in jail. The bail application filed by the applicant before the Additional Sessions Judge Kunkuri, District Jashpur, C.G. was dismissed vide order dated 14-02-2017 in bail petition No.10/17. The applicant will appear regularly before the trial Court. He may be granted an opportunity and also cooperate with the trial as per

procedural law. He may be given one opportunity.

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 misused the liberty granted by the Additional Sessions Judge Kunkuri and not cooperated with the trial pending before the JMFC Pathalgaon, the instant MCRC may be dismissed.

4. Perused the entire material.

5. On the strength of material collected by the prosecution, the Additional Sessions Judge Kunkuri granted bail to the applicant earlier. The applicant was arrested as he remained absent during trial and with this not cooperated in the progress of the trial. Now, as the applicant is in jail for two months and 24 days, earlier also he was in jail for 5 months and 11 days as submitted, I am inclined to grant one last opportunity to the applicant so that he shall cooperate with the trial, appear regularly before the trial Court. 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 Pathalgaon, District Jashpur, C.G. for his appearance before the said trial Court as and when directed in Criminal Case No.303/2011.

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. However, the trial Court is directed to initiate proceedings against the applicant and his surety under the relevant provisions of Section 446 and other section of the Cr.P.C. for forfeiture and realization of bond and surety amount as per provisions of law if not proceeded earlier, pass appropriate order for the forfeiture and other follow up.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE