

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1847 of 2017**

Vijay Anant S/o Shri Dayaram Anant Aged About 28 Years (Wrongly Mention In Impugned Order Kumar Also Wrongly Mention Aged 8 Years) R/o Village Dhandhan Police Station & Tahsil Takhatpur District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Takhatpur, District Bilaspur, Chhattisgarh.

---- Respondent

For applicant	Mr. Dharendra Pandey, Adv.
For Respondent/State	Mr. Neeraj Jain, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****06/04/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No. 200/2015 registered in PS Takhatpur, Distt. Bilaspur (CG) for offence punishable under Section 147, 148, 149, 294, 307, 323, 327/34 of the IPC on 18-1-2017. Charge sheet has been filed. The matter is committed and pending before the Additional Sessions Judge, Bilaspur, CG.
3. Learned counsel for the applicant submits that he is not aware of the sessions trial number and also number of the concerned committal court. In the said crime number, police registered the matter against 7 persons. Out of them, Rajendra, Santosh, Ashok, Dilip and Manoj were tried by the Sessions Judge as Sessions Trial No. 117/2015. Said sessions court vide judgment dated 26-11-2016 convicted all the above 5 accused persons only under Section 325 of the IPC. Against the said conviction above all 5 co-accused had preferred Criminal Appeal No. 1498/2016 and 1499/2016 before this Court. Both the criminal appeals are pending. Conviction by the trial Court is

suspended by this Court and all the above 5 convicted co-accused persons are on bail till disposal of above criminal appeals. Thereafter the present applicant and co-accused Dayaram Anant surrendered before the trial Court and since then they are in custody. Co-accused Dayaram applied for his regular bail before this Court. The coordinate bench vide order dated 28-2-2017 in M.Cr.C. No. 892/2017 granted bail to co-accused and with this said co-accused is on bail. The only remaining accused Vijay Anant is praying for his release on bail. As submitted, the trial Court earlier appreciated the evidence against co-accused and convicted them only under Section 325 of the IPC. The case of the present applicant is also similar to that of those 5 convicted accused persons. Also the case of the present applicant is similar to that of his father co-accused Dayaram who is granted bail by the coordinate bench. The incident is of 21-7-2015. The applicant and the co-accused Dayaram had preferred a petition for grant of anticipatory bail before this Court but learned counsel for the applicant is not in a position to state the number of said MCRCA but the said petition was withdrawn and the said fact is surfaced in the order passed in ST No. 25/2017 (State -v- Vijay Anant and another) by the trial Court who had decided the application under Section 439 of the Cr.P.C. on 19-1-2017. It is submitted that though the applicant was not traceable for a long time but now he will cooperate with the trial. Looking to the entire facts and circumstances he be granted an opportunity to remain in bail like other co-accused persons granted bail by the coordinate bench till pendency of the trial.

4. Per contra, learned Counsel for the State opposes the arguments advanced by learned counsel for the applicant and submits that on account of abscond of the present applicant and co-accused Dayaram, the trial against them was not concluded along with other convicted co-accused. Also police registered one matter against the

applicant under Section 452, 327, 294, 506 and 34, IPC in the year 2011, under Section 36(C) of the CG Excise Act in the year 2007, under Section 151, 107, 116 in the year 2009, and twice proceeded under Section 110 of Cr.P.C. and other matters under the various provisions of Cr.P.C. including Section 107 and 116 of the Cr.P.C. which goes to show the criminal antecedent of the present applicant hence his bail may be dismissed.

5. Perused the entire material.
6. On due consideration, though the applicant was not traceable in the matter but ultimately he had surrendered on 18-1-2017 and since more than 2 ½ months he is in jail. Other co-accused persons were found guilty only under Section 325 of the IPC by the trial Court and there also they were enlarged on bail. Co-accused facing trial along with present applicant is also granted bail. The matter is of about 1 year and nine months old. There is no material that the victim is still admitted in the hospital. The present trial may take some time. So far as earlier antecedent is concerned, the applicant has surrendered and prayed that he will cooperate in the trial. In view of above circumstances, I am inclined to grant bail to the present applicant so that he may face the trial and live in the society without committing any offence.
7. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the Additional Sessions Judge, Bilaspur in connection with ST No. 25/2017 (if number is not correctly mentioned in the bail order dated 19-1-2017 then the said pending case may be appreciated on the basis of Crime number, police station and the offence registered including his name, father's name and the status whereby the charge sheet has been filed and the matter is pending before the Addl.

Sessions Judge, CG) for his appearance before the said Court during pendency of the trial regularly as and when directed by the said Court.

8. 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; (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.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge