

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2023 of 2017**

- Mohammad Jakir Husain @ Guddu, S/o Mohd.Jabir Husain, Aged About 34 Years, R/o Hariunga Chowk, Bagaan Para, Thana Nayatoll, District Paakud, Jharkhand.

---- Applicant**Versus**

- State Of Chhattisgarh, Through Station House Officer, Police Station Kotwali, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant in MCRC No.2023/17 : Shri Mateen Siddiqui,
Advocate.

For Non-applicant/State : Shri Ashok Swarnkar, Panel
Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.09.2017**

Learned counsel for the applicant submitted some photocopy regarding proof of age of applicant of the said photocopy as taken in the record and made part of the record.

Perused the office note dated 18/09/17, as per office note the co-accused has preferred any petition to enlarged him on bail.

Heard the matter finally.

2. Learned counsel for the applicant would submit that as the facts submitted on behalf of the respondent that earlier at Nagar, Police Station Paakud Distt. Paakud (Jharkhand) Crime No. 196/1992 has been registered under Section 393 & 302 of Indian Penal Code on 04/09/1992. Learned counsel for the applicant would

submit that on perusal of the date of birth of the applicant has shown in the document submitted to it appears that date of birth of the applicant is 08/06/1989 with this at the time of matter registered against the applicant. He was of 3 years age only, with this it appeared that he may not involved in the said offence. Learned counsel for the applicant would submit that applicant is a businessman, he came Raigarh to purchase hair waste available at the barber shop, in course of hair cut for commercial use and he was simply sitting at the spot with this offence under Section 399, 402 & 34 of the Indian Penal Code and Section 25 of the Arms Act 1959, is not attracted. The applicant is falsely implicated. Learned counsel for the applicant would submit that the applicant was arrested on 02/09/2016 in connection with Crime No.56/2016.

3. Learned counsel for the applicants would submit that after investigation police had filed charge-sheet against total 5 accused persons and other co-accused had not preferred any petition to enlarged them on bail, matter is presently pending before the First Additional Sessions Judge, Raigarh (C.G.) as Sessions Trial No.151/2016. He is presently aged about 34 years, he may be granted bail till trial.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant and would submit that as per the facts surfaced in the case diary, the aforementioned Crime No. has been registered against the applicant. Also as the applicant and other co-accused were sitting together for making preparation to commit dacoiti, the police searched them and recovered one country made revolver, one empty cartridge of 315

bore, 1 live cartridge of 303 bore, one mobile and cash Rs.5500/- during investigation, goes to show that applicant was the member of assembly and assembled for preparation, to commit dacoity. Hence, the instant MCRC may be dismissed.

5. Perused the entire matter.

6. There is nothing for the cross-check regarding the genuiness of photocopy submitted on behalf applicant regarding the age of applicant. If that age may be taken as correct, even then in the present matter, police after arrest of the applicant shown the age of the applicant as 34 years. If considering the dated birth as 08/06/1989 age of the applicant presently is about 24 years. Even otherwise, if the aforementioned criminal matter registered prior to the incident may be ignored, in the present matter. Looking to the fact that one country made pistol, one empty cartridge, one live cartridge was seized from the applicant. There was no lawful authority to keep the above fire arms and cartridge with the applicant who is a resident of Paakud (Jharkhand) and found at Raigarh, at the time of incident. Also after the perusal of the matter of the charge-sheet prima-facie, it appears that applicant was a member of assembly for the preparation of committing dacoity, upon consideration of the entire facts, I am not inclined to grant the bail to the applicant.

7. Consequently, the instant MCRC is hereby dismissed.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**