

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2143 of 2017**

- Babu Lal @ Poonam Chand Kurre S/o Pun Lal Kurre, Aged About 20 Years (Wrongly Mentioned As Phool Lal Kurre In The Order Sheet), R/o Purani Basti, Jora Jaitkham, Police Station Khamtarai, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vimlesh Bajpai, Advocate
For Respondent/State	: Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18.4.2017**

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.125/2017 registered in Police Station Khamtarai, Distt. Raipur for the offence punishable under Sections 294, 506, 327/34 of IPC.

3. Learned counsel for the applicant submits that the applicant has been arrested on 11.3.2017, charge sheet is yet to be filed and is remanded by Chief Judicial Magistrate, Raipur. Though in the MLC report of the complainant, the doctor has advised for x-ray of nose, but till date no such x-ray was taken. With this, injuries sustained by the complainant are simple in nature. The applicant is

the first offender, he will not commit any offence in future, hence, he may be granted bail till conclusion of the trial. He further submits that as there is no criminal antecedent, case of the present applicant is distinguishable from the co-accused of Krishna Nepali @ Krishna Bahadur.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant and would submit that present applicant told the complainant that the co-accused is calling him and thereafter both the accused caught hold of the applicant, used obscene words and demanded Rs.500/- for consumption of liquor and when the complainant refused co-accused Krishna Nepali assaulted him by hands and fits, the complainant was saved by his family members. Looking to the entire facts and circumstances, as the matter is under investigation, application filed by the applicant may be dismissed.

5. Perused the entire material.

6. It appears that present applicant is not the main accused, he had not assaulted or committed marpeet, but by adding Section 34 IPC he was made accused in the mater and also in the MLC report the doctor noticed and reported that the complainant has consumed liquor, there was injuries or swelling on the occipital region and swelling or tenderness on the part of the nose, the doctor has advised for x-ray but the complainant refused the same and has given in writing that he will take treatment from his family doctor and not at Makehara Raipur. As the applicant has not taken any active part in the assault, he is in jail for about one month, his case is

distinguishable from the case of the co-accused, no criminal antecedent is reported against the present applicant, I am inclined to grant one last opportunity to the applicant so that he may remain in the society without committing any further offence in future.

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 solvent surety in the like sum to the satisfaction of Chief Judicial Magistrate, Raipur 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