

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2602 of 2017

1. Satish @ Ganesh Gilhare S/o Krishan @ Kisna Gilhare, Aged About 21 Years, R/o Village- Baronda, Police Station Kharora, Raipur, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through Police Station- Kharora, Raipur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Vikram Singh, Advocate.

For Non-applicant/State – Shri Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09-05-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.300/2016 on 16-9-2016 by Kharora police, District- Raipur, C.G. for the offence under Section 294, 323, 506, 307 read with Section 34 of the IPC. The matter is pending for evidence before the First Additional Judge to the Court of First Additional Sessions Judge Raipur, C.G. as S.T. No. 10/17. Co-accused Manoj was granted bail in MCRC No.1969/2017 vide order dated 10-04-2017 and co-accused Krishana and Minichand were granted bail in MCRC No.1003/2017 vide order dated 01-3-2017. This is the first bail application of the present applicant. He is in jail since 7 months and 23 days till date. As per the allegation, present applicant is main accused who has assaulted Gangadhar Dhiwar (PW-1) by a sickle, sharp edged weapon. The injured was admitted in hospital from 15-9-2016 till 20-9-2016. Thereafter, he was not readmitted or no any further complication shown in the charge sheet; he was examined before the trial Court on 29-3-2017, the prosecution declared him as hostile and asked leading question. The complainant not supported the prosecution's story, his father Jodhan (PW-2)

also not supported the prosecution's case. Also there is no any opinion of the treating/MLC conducting doctor that the injury was fatal to life. The applicant is first offender. He is aged about 21 years. He never involved in any similar offence prior to the incident. He will not misuse the liberty. He may be granted bail till trial.

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 assaulted solitary blow through a sickle to the injured, caused one lacerated wound by sharp edged weapon at the back of neck. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. On due consideration, as the applicant is in jail since 7 months and 23 days, he is first offender, this is first bail application, there is no any opinion of the doctor that the injury was fatal to life or grievous in nature, injured was admitted in hospital till 20-9-2016, other co-accused were granted bail by this Court, no any other complication shown in the charge sheet for injured, I am inclined to grant one opportunity to the applicant so that he shall not involve in any offence in future and will live peacefully in society. 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.30,000/- with one solvent surety of the like sum to the satisfaction of First Additional Judge to the Court of First Additional Sessions Judge Raipur, C.G. for his appearance before the said trial Court as and when directed till trial.

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. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

Aadil