

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3805 of 2017**

- Kanak Ram S/o Nanki Jaiswal, Aged About 49 Years R/o Village Rasouta, Tahsil And Police Station Pamgarh, District Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pamgarh, District Janjgir-Champa, Chhattisgarh

---- Respondent

For Applicant	: Shri HV Sharma, Advocate
For Respondent/State	: Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****04.7.2017**

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.367/2015 registered in Police Station Pamgarh, Distt. Janjgir - Champa (CG) for the offence punishable under Sections 294, 506, 323, 307, 279/34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 29.4.2017, the matter is still under investigation, charge sheet is not yet filed, the applicant has been remanded by Judicial Magistrate First Class, Pamgarh. Learned counsel for the applicant submits that three other co-accused who took part in the role of assault are absconding, the applicant is the first offender, and as per allegation present applicant has instigated

3 other accused persons to assault Ram Milan, Chottelal, Kishun, and Manoj Banjare. Date of incident is 03.12.15, named FIR has been lodged against present applicant on 03.12.2015. As per allegation other three absconding accused assaulted above four injured, injured Chottelal was hospitalised for four days i.e. from 04.12.15 till 07.12.15, doctor noticed fracture over seventh rib, injured Kishun was admitted in the hospital for four days i.e. 04.12.2015 till 07.12.15, doctor noticed fracture at left frontal and right parietal bone. Injured Ram Milan was admitted in the hospital for ten days i.e. 04.12.2015 till 14.12.2015 and the doctor noticed compound fracture over the right leg in both the bones. Injured Manoj Banjare denied to be examined by the doctor. The other co-accused are still absconding. There is no further complication was reported regarding injured persons. As the incident is about one year and seven months old, the investigation may take sometime, the applicant is not required for any further interrogation, he may be enlarged on bail during trial.

4. Per contra, learned counsel for the State opposes the bail application and would submit that the applicant instigated other co-accused persons to assault the above mentioned by rod and other instruments, with this, as aforementioned four people were injured and sustained fracture as aforementioned and also admitted in the hospital as submitted. The applicant after the incident remained absconding till his arrest on 30.4.2017. He was arrested only after about one year and four months. Hence, looking to the entire facts and circumstances, the instant bail application may be dismissed.

5. Perused the entire material.

6. Though earlier the applicant remained absconding about one year and four months and ultimately he was arrested and is in jail for two months and five days, three other co-accused are still absconding, the police has not filed charge sheet against the present applicant showing that three co-accused persons are absconding or praying that after their arrest supplementary charge sheet may be filed under Section 173(8) of the CrPC which goes to show the speed of the investigation and also one injured remained in the hospital for ten days, two other injured were admitted in the hospital for four days, there is no further complication shown in the charge sheet, the trial may take some time for its conclusion and there is no criminal antecedent against the applicant. On due consideration of the entire facts, I am inclined to grant one opportunity to the applicant, so that he shall not commit any similar or other 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.30,000/- with one solvent surety of like sum amount to the satisfaction of Judicial Magistrate First Class, Pamgarh, Dist. Janjgir Champa 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