

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3797 of 2017**

Sanjay Mishra S/o Jehru Lal Mishra, Aged About 34 Years R/o Village
Balsamunder Baradoli, Police Station Saraipali, District Mahasamund,
CG

---- Applicant

Versus

State Of Chhattisgarh through Station House Officer, Police Station
Sankra, District Mahasamund, Chhattisgarh

---- Respondent

For applicant	Mr. Vikas Pradhan, Adv.
For Respondent/State	Mr. UKS Chandel, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****30-6-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 13-2-2017 in connection with Crime No. 28/2017 registered in PS Sankra, Distt. Mahasamund for offence punishable under Section 392/34 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed against 4 accused persons under Sections 392, 451, 414 of the IPC. The applicant is first offender. During trial, prayer of compounding of offence by complainant Annapurna Bai and co-accused Mahesh Agrawal for offence under Section 411, IPC has been allowed by the trial Court on 2-3-2017. After compounding of offence, co-accused Mahesh Agrawal is acquitted for the charge. Thereafter on 4-3-2017 another co-accused Hemant Sharma along with complainant Annapurna Bai prayed for compounding offence. The trial Court vide order dated 4-3-2017 allowed the prayer for compounding the offence and with this acquitted co-accused Hemant Sharma for charges under Section 414

of the IPC. Thereafter two co-accused, present applicant and Chhotu Khan are facing trial under Section 392/34, IPC. Chhotu Khan has not preferred any MCRC for his release on bail before this Court. As per allegation, the present applicant and the co-accused looted golden ornaments locket valued approximately Rs. 9,000/-. Said golden ornament was recovered from Mahesh Agrawal. In the seizure memo, value of locket was mentioned by police as Rs. 2,950/-. Police also annexed a certificate in the charge sheet which goes to show the value of property is Rs. 5,640/-. With this at the best, value of the property may be termed as Rs. 5,640/- Receivers of the stolen / robbed property are acquitted on account of compromise. The complainant examined during trial on 15-3-2017 turned hostile and not supported the case of the prosecution, also not deposed anything against the present applicant. There is no criminal antecedent of the applicant. Hence the applicant may be granted bail during trial as the trial may take some time.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced by learned counsel for the applicant and submits that during investigation, police conducted Test Identification Parade regarding the persons and property. The complainant identified the applicant, also the locket so seized. The property has been seized on the basis of memorandum of present applicant and co-accused Chhotu Khan. Looking to the entire incriminating circumstances, the applicant may be denied bail.
5. Perused the entire material.
6. The applicant is in custody for last 4 months and 17 days till date. He is first offender. Value of the robbed property is assessed by the prosecution Rs. 5,640/- only. Other two co-accused are acquitted as the complainant entered into a compromise with them. Upon considering entire facts and as the trial may take some time and the

applicant was never involved in any other offence, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime. 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. 1,00,000/- with two solvent sureties of Rs. 50,000/- to the satisfaction of the JMFC, Pithora CG for his appearance before the said Court regularly as and when directed by the said Court.

7. 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: (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.
8. CC as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge