

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4129 of 2017

- Ashish Pandey S/o Dr. Virendra Pandey, Aged About 32 Years, R/o Mungeli, Police Station Mungeli, District Mungeli, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Civil Line, District Bilaspur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Amit Kumar, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

For Petitioner/Complainant Rajesh Pandey – Shri Vipin Singh, advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-07-2017

1. Heard on I.A.No.1/2017 application for permission to assist the prosecution and for objection in granting bail to the applicant/accused.
2. On due consideration, I.A.No.1/2017 is hereby allowed.
3. Learned counsel for the petitioner/objector is permitted to assist the prosecution under the relevant provisions of Section 301(2) of the Cr.P.C.
4. Heard the matter finally.
5. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.323/2017 on 30-4-2017 by P.S. Civil Lines, District Bilaspur, C.G. for the offence under Section 452, 294, 506 Part II/34, of the IPC and Section 25, 27 of the Arms Act, 1959. After investigation police had filed the charge sheet against two accused persons. Co-accused Raju Kesharwani @ Rajkumar has been granted bail by VIIIth Additional Sessions Judge, but learned counsel for the applicant is not aware of the bail petition number and the date of order. The charge sheet is numbered as 1972/17 pending before CJM Bilaspur, C.G. Learned counsel for the applicant would submit that the applicant is first offender. He is in jail since long. Charge sheet has been filed. He will not commit any offence in future. Trial may take some time. He may be permitted to be remain in bail during trial.

6. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant on the basis of the fact that the applicant is younger brother of the complainant and in the intervening night of 29 and 30-04-2017 the applicant along with co-accused entered in the house of the objector and after trespass in the house the applicant spoken obscene words and gave threat to kill and at that time he was taking a sword of prohibited category, when the objector informed police the applicant and the co-accused after hearing siren of the police fled from the spot and thereafter caught by the police party nearby and arrested. The sword is also seized from the applicant. Hence, looking to the entire facts, the instant MCRC may be dismissed.

7. Perused the entire material.

8. As the applicant is in custody since 2 months and 28 days till date, and as per the submission, on 20-04-2017 preventive proceedings under Section 107, 116(3) of the Cr.P.C. has been initiated and except this there is no any criminal antecedent of the applicant, charge sheet has been filed, trial may take some time, on consideration of the entire material, I am inclined to grant one last opportunity to the applicant so that he shall not involve himself in any offence and shall 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.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate Bilaspur, C.G. for his appearance before the said Court as and when directed till trial.

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 above, the Court below may proceed further under the provisions of law under intimation.

10. It is further directed that the applicant shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Civil Lines, District Bilaspur, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of the said criminal case against him. If the applicant failed to mark his appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicant was not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicant shall stand cancelled by the trial Court without further reference to the Bench.

11. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. In addition, the applicant is directed not to communicate/contact in any of the manner with the complainant and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, the witnesses and the complainant may report the said act to the trial Judge and if the trial Judge finds that in any way the applicant gave pressure or any attempt for any illegal favour in the trial or otherwise directly or indirectly, the bail granted to the applicant shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicant in custody including other measures as provided under the law.

13. Certified copy as per rules.

Sd
(Chandra Bhushan Bajpai)
Judge