

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4141 of 2017**

Kamlesh Patre S/o Anil Patre, Aged About 20 Years R/o Quarter No. 6 A,
Road No. 11, Sector 6, Bhilai, Tahsil & District Durg, CG.

---- Applicant

Versus

State of Chhattisgarh through the Police Station in-charge Police Station
Padnabhpur Chouki, District Durg, Chhattisgarh.

---- Respondent

For applicant	Mr. Jitendra Gupta, Adv.
For Respondent/State	Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****27/7/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 25-4-2017 in connection with Crime No. 108/2017 registered in PS Padmanabhpur, Distt. Durg (CG) for offence punishable under Section 307, 34 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed which is ultimately committed to the court of Sessions and presently pending before the 4th Additional Sessions Judge, Durg as ST No. 104/2017. He submits that applicant is first offender, he is in jail since long and as per allegation, he has not taken active part in the assault. The knife used to assault the injured Laki Kumar was seized from the co-accused Mahesh Dongre and till today said Mahesh Dongre has not filed any application for his release on bail. Said injured was admitted in the hospital from 20-2-2017 to 25-2-2017 only

and there is no further complication reported and surfaced in the charge sheet. As per allegation, the applicant came along with main accused and both used obscene words to the injured and thereafter the main accused assaulted the injured. He will not commit any offence in future. He may be enlarged on bail as his case is distinguishable from the main accused.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that the applicant and the main accused after sharing common intention reached to the injured and threatened him and thereafter the co-accused Mahesh Dongre gave 4 blows from the knife. Doctor noticed 4 injuries over right and upper back side. Out of them three injuries were noticed as simple in nature. Fourth injury was caused on the left side of forehead. For the said injury, in the MLC, patient was referred for CT scan. In the CT scan report, the doctor noticed contusion and hemorrhage and as the applicant shared common intention, instant MCRC may be dismissed. However he fairly concedes that Padmnabhpur police has not reported any criminal antecedent of the applicant in the case diary.
5. Perused the matter.
6. As the applicant is in jail for last 3 months and 2 days till date, he is first offender, aged about 20 years, he has not actively participated in the offence, even otherwise the injured was admitted in the hospital for six day only i.e. from 20th to 25th of February, 2017 and thereafter no further complication is reported in the charge sheet, charge sheet has been filed, the trial may

take some time, on consideration of entire facts, 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. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of the trial Judge 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. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Padmnabhpur, Distt. Durg (CG) on every 1st and 3rd Monday at 11 am positively till trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. In addition, the applicant is directed not to communicate / contact in any manner with the injured and the witnesses cited in the charge sheet and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds that in any way the applicant directly or indirectly gave pressure for illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to the bench and the concerned trial Court may take the applicant in custody including other measures as provided under the law.
9. 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.
10. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge