

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4172 of 2017**

- Dinesh Kumar Maheshwari @ Golu Marwadi S/o Late Jagdish Maheshwari, Aged About 34 Years R/o Kilapara, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Basantpur, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri Avinash Chand Sahu, Advocate
For Respondent/State	: Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****27.7.2017**

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.276/2016 registered in Police Station Basantpur Distt. Rajnandgaon (CG) for the offence punishable under Sections 307, 120-B, 212/34 of the Indian Penal Code and under Sections 25 & 27 of the Arms Act, 1959.

3. Learned counsel for the applicant submits that the applicant has been arrested on 01.12.2016, after investigation police has filed charge sheet against four accused persons which is pending before Additional Sessions Judge/Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989, Rajnandgaon as Session Trial No.18/2017. Learned counsel for the applicant would submit that there are total four accused persons charge sheeted including the present applicant, remaining three accused persons Bharat Sahu, Vinod and Nitin Limbo @ Munku Nepali have preferred M.Cr.C. No.3219/17, 1772/17 and 3623/16 and the Vacation Judge vide order dated 25.5.2017 granted bail to them . As per the facts, co-accused Nitin Limbo is the main accused, who too was granted bail and as per the allegation he opened fire from country made revolver causing injury over left scapular region of the injured Ghanshyam Vishwakarma. Case of the present applicant is better than said Nitin Limbo and is at part with co-accused Bharat Sahu and Vinod. He is in custody since long, he will not commit any offence in future, hence he may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and would submit that earlier following matters have been registered against the applicant.

Sl. No.	Crime No.	Offence U/S.
01.	18/2000	379 IPC
02.	Complaint No.119/03	151, 107, 116(3) of Cr.P.C.
03.	Complaint No.47/16	110 Cr.P.C.
04.	771/2014	341, 294, 323,506, 427, 34 IPC

Looking to the entire facts surfaced, the instant bail application may be dismissed.

5. Perused the entire material.

6. The applicant is in custody for seven months and twenty eight days, matter is pending for trial, other co-accused including main accused were granted bail as aforementioned, case of the present applicant is similar to those accused, though as aforementioned four matters have been registered against the applicant, out of them two were in relation with preventive proceedings, the applicant has never been convicted by any other criminal court, on due consideration of entire facts, I am inclined to grant one opportunity to the applicant, so that he will commit any offence in future and shall remain peacefully in the society.

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.50,000/- with two separate solvent sureties of Rs. 25,000/- to the satisfaction of the concerned trial Judge 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.

10. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Basantpur, Rajnandgaon **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Basantpur, Distt. Rajnandgaon as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. In addition, the applicant is directed not to communicate/contact in any of the manner with the complainant, witnesses cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. 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 directly or indirectly gave pressure or any attempt for any 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 shall take the applicant in custody including other measures as provided under the law.

12. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE