

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4467 of 2017**

Krishna Kumar S/o Mahadeo Rathiya, Aged About 26 Years Caste
Rathiya, R/o Village Chhuidhodha, Police Station Balco, Tahsil &
District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate (Chowki
Rajgamar, Police Station Balco) District Korba, Chhattisgarh.

---- Respondent

For applicant	Mr. Basant Kaiwartya, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****9-8-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 17-6-2017 in connection with Crime No. 289/2015 registered in Outpost Rajgamar, PS Balco, Distt. Korba (CG) for offence punishable under Section 399 and 402 of the Indian Penal Code and Section 25(1)(B) of the Arms Act, 1959.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the 2nd Addl. Sessions Judge, Korba, CG as ST No. 75/2016. Total six accused persons are charge sheeted including present applicant. He further submits that the applicant was granted bail by the Sessions Judge, Korba in Bail application No. 715/2015 vide order dated 27-10-2015. On furnishing bail bond he was released and then remained absent on 12-6-2017 when the matter was fixed for evidence. Thereafter the trial Court issued a warrant of arrest and ultimately he is arrested on 17-6-2017 immediately after 5 days. On account of his illness he failed to appear before the trial Court. Now he will not

remain absent in the trial Court. He may be granted an opportunity to remain in bail during remaining part of the trial.

4. Per contra, learned counsel for the State opposes the bail application and submits that the applicant did not inform reason for his non-appearance through his counsel when the matter was fixed for evidence. With this he has misused the liberty, hence instant MCRC may be dismissed.
5. Perused the entire matter.
6. As the applicant is in custody since 1 month and 22 days till date, with this he has sufficiently tasted the post effect of non-appearance during trial and also as there is no other incident of his non-appearance during trial, I am inclined to grant last opportunity to the applicant to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed.
7. The trial Court is directed to register MJC under Section 446 of the Cr.P.C. against the applicant and his surety if not registered earlier and after hearing the accused and surety, pass appropriate order under the law for forfeiture and realization of the bond/surety amount as per provisions of CRPC as early as possible.
8. 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 Court for his appearance before the said Court regularly as and when directed by the said Court.
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: (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. CC as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**

Pathak