

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4525 of 2017

- Azhar Ali S/o Asgar Ali, Aged About 23 Years, R/o Ahead of Bhagat Chowk, Chandrakar Bari, Salhewarpara, Dhamtari, District Dhamtari Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police of Police Station City Kotwali, Dhamtari, District Dhamtari Chhattisgarh

---- Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

10-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.204/2017 on 12-6-2017 by P.S. City Kotwali, Dhamtari, District Dhamtari, C.G. for the offence under Section 294, 323, 324, 307, 506 of the IPC and Section 25, 27 of the Arms Act 1959. After investigation charge sheet has been filed, which is pending before the trial Court, i.e., Additional Sessions Judge Dhamtari, C.G. as Sessions Trial No.33/2017. Learned counsel for the applicant would further submit that the applicant and the injured are friends; on a trivial dispute the incident happened and as per the facts surfaced in the charge sheet the doctor noticed three stab wounds over left forearm, back shoulder region, left abdomen and as per the opinion all the three injuries were simple in nature. The injured never admitted in the hospital. There was no danger to the life of the injured, though sharp edged weapon of prohibited length is seized from the applicant. He will not commit any offence in future. He may be granted bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that the

applicant gave threat to take life, also used obscene words, assaulted through hands and fists and also through *gupti*, a sharp edged weapon, as the witnesses present intervened, with this the life of the injured was saved. Hence, looking to the entire facts, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 1 month and 28 days till date, charge sheet has been filed, trial may take some time, nature of the injuries as stated was simple, though the applicant assaulted through sharp edged weapon and caused three stab injuries, but the applicant is first offender, aged about 23 years, there was no any previous enmity and other cause, the incident committed on all of a sudden, on consideration of the entire facts, I am inclined to grant one 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 trial Judge/ Additional Sessions Judge Dhamtari, C.G. for his appearance before the said Court as and when directed till trial.

6. 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.

7. In addition, the applicant is directed not to communicate/contact in any

of the manner with the injured and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, the witnesses and the injured 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.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge