

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5954 of 2017

- Kumendra @ Umend S/o Ramji Jangde, Aged About 37 Years, R/o Village Dashrangpur, Thana Pandatarai, District Kabeerdham Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Pandatarai, District Kabeerdham Chhattisgarh.

---- Non-applicant

For Applicant – Shri Samir Singh, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

11-10-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant is held arrested in connection with Crime No.24/2017 on 27-06-2017 by P.S. Pandatarai, District Kabeerdham, Chhattisgarh for the offence under Section 294, 323, 307, 506 of the IPC. After investigation police had filed the charge sheet, which is presently pending before the Additional Sessions Judge (FTC) Kabeerdham (Kawardha), C.G. as Sessions Trial No.39/2017. Learned counsel for the applicant would further submit that the injured is nephew of the present applicant and on account of suspicion the injured thought that son of the applicant had taken sweets and other edible item from dicky of the motorcycle, as per the allegation, the applicant assaulted by battle axe and caused following injuries:- (1) lacerated wound, size 5 x 0.5 x 0.25 cm over middle parietal region, (2) lacerated wound, size 2 x 0.5 x 0.25 cm over left parieto occipital region. There is no fracture noticed and as per the charge sheet, the injured admitted in the hospital for about 15 days, i.e., from 26-03-2017 to 09-04-2017. There is no any material to demonstrate that the injuries were fatal to

life and as per the opinion of the doctor, the injuries were simple/grievous in nature. Trial may take some time. The applicant 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 on account of some suspicion as the injured was enquiring regarding missing sweets and edible item from the dicky of his motorcycle, the applicant assaulted the injured with the battle axe and caused aforementioned injuries. Hence, the instant MCRC may be dismissed. Learned State counsel would further submit that prior to the incident following matters have been registered against the applicant:-

Sl. No.	Crime No.	Section
01.	149/07	36(C) of the C.G. Excise Act, 1915 (in short 'the Act, 1915').
02.	158/07	36(C) of the Act, 1915.

4. Perused the entire material.

5. As the applicant is in custody since 3 months and 15 days till date, charge sheet has been filed, trial may take some time, there is no any material to demonstrate whether the injured surfaced any further complication after discharge from the hospital with the injuries received, there is no any opinion of the doctor showing that the injuries were fatal to life, also the doctor had not noticed any corresponding fracture, after 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 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 to not to communicate/contact in any of the manner with the injured, his family members and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, the injured, his family members and the witnesses 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. Additional Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge for compliance and information.

9. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge