

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6471 of 2017

- Tarachand Rathore S/o Late Ramnath Rathore, Aged About 57 Years, Caste Rathore, R/o Village - Sapiya, Chowki - Fagrum, Police Station Dabra, District Janjgir-Champa Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer , Police Station Schedule Caste Schedule Tribe, Janjgir , District Janjgir-Champa, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Malay Shrivastava, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Shri Hari Agrawal, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-12-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for regular bail. The applicant was arrested on 27-09-2017 in connection with Crime No.11/2017 registered at P.S. Schedule Caste Schedule Tribe, Janjgir , District Janjgir-Champa, C.G. for the offence under Section 452, 294, 506, 323, 186, 353, 332, 333, 34 of the IPC and Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. It is submitted on behalf of the applicant that the applicant is innocent and has been falsely implicated in this case. The offence as alleged under Section 186, 353, 332, 333 of the IPC no case is made out against the applicant for offence under Section 186, 353, 332 and 333 of the IPC as the complainant in this case does not fall under the definition

of a public servant. Reliance in this regard has been placed on the judgment of Bombay High Court in the matter of **Shantaram Balya Sankhe & Ors. Versus Kaliram Gajanan Sankhe & Ors.** reported in **2000 SCC OnLine Bom 888 : (2001) 103 (1) Bom LR 640**. It is further submitted that the applicant is local resident, he is ready to abide by all the conditions imposed on grant of bail. Hence, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made. It is submitted that in a previous case against the applicant and others, he has been convicted by the trial Court and thereafter on preferring appeal before this Court, the applicant was released on bail after suspension of sentence against him and it was soon after that this incident has taken place, in which the applicant has assaulted the complainant and others and also committed other offences. Hence, looking to this backdrop, the applicant is not entitled for grant of bail.

4. Learned counsel for the objector adopts the arguments advanced by learned counsel for the State/non-applicant and submits that complainant Nankiram Sidar is elected Sarpanch and aged about 78 years who had not been accused in the previous case of free fight between the applicant party and other party and that the applicant was not an office bearer of the panchayat, even then he came inside the panchayat bhawan and then disrupted the meeting that was going on, and looking to his arrogance and history against him, he is not entitled for grant of bail.

5. Heard learned counsel for the parties and perused the case diary.

6. Facts of the case are these that on the date of incident a meeting was held in the panchayat bhawan, Gram Panchayat Sapia when the applicant entered into the office of the gram panchayat and used abusive words for the sarpanch, the complainant and then also assaulted with club, caused him various injuries, one of the injuries caused was grievous. On lodging of the FIR, the case has been registered against the applicant.

7. Taking into consideration the facts of the case and that the applicant is local resident, the trial of the case is likely to take some time for its conclusion and suitable condition may be imposed upon the applicant that the repetition of the offence or any such act by the applicant against the complainant and others, on being reported, the bail granted to the applicant shall stand cancelled. On this condition, the application (MCRC No.6471/2017) filed under Section 439 of the Cr.P.C. by the applicant is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge