

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 7369 of 2016

Manoj Kumar Patel, S/o. Krishna Kumar Patel, Aged About 24 Years, R/o. Dhumadand, Police Station -Chandoura, District- Surajpur, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Of Police Station - Chalgali, District- Balrampur -Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Amarnath Pandey, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/10/2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 04.07.2017, in connection with Crime No.67/2014, registered at Police Station – Chalgali, District – Balrampur – Ramanujganj (C.G.) for the offence punishable under Section 302, 304-B of Indian Penal Code and Section 5, 6 of Tonhi Pratadana Adhinyam.
2. This application has been brought on behalf of the applicant by his father Krishna Kumar Patel. It is submitted that the applicant is suffering from grievous mental disorder because of which, he is presently unable to defend himself in the trial, it is only this ground, which is emphasized and prayer is made for grant of bail as per the

provisions of Section 330 of Cr.P.C. It is also submitted that application for grant of bail was preferred before the trial Court on the same ground, which has been rejected, hence this application.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. By orders of this Court, applicant has been referred for medical examination. The said report of medical examination is attached with the case diary. Applicant was examined on 24.05.2017 by the State Mental Health Hospital, Sendari, Bilaspur, where he has undergone some treatment. Report dated 03.01.2017 is attached in the case diary in which the Incharge Medical Officer of State Mental Health Hospital, Sendari, Bilaspur has opined that the applicant is suffering from serious disorder interictal psychosis, which means some kind of neurological disorder.
6. Mentally ill person is defined in Section 2 (L) of Mental Health Act, 1987, which means a person who is in need of treatment by reason of any mental disorder other than mental retardation, hence mental disorder for any reason makes a person mentally ill and thus a person of unsound mind. The report attached with the case diary discloses that the applicant is under going treatment for mental disorder since the year 2014 and has been treated in the mental hospital at Ranchi as well. It is submitted by the counsel for the applicant that trial against the applicant has been stayed by the trial Court itself because of unsoundness of mind of the applicant and also for the reason that

applicant is continuously undergoing treatment for his mental disorder.

7. Section 330 of Cr.P.C. provides that when person incapable of entering defence due to reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be shall, release such person on bail and postpone the trial till the accused person recovers from unsoundness of mind by treatment given to him.
8. In this case, the father of the applicant Krishna Kumar Patel has moved this application and the counsel for the applicant submits that father of the applicant is willing to furnish bail bonds on behalf of the applicant and keep the applicant in his safe custody for the purpose of his proper treatment in appropriate mental hospital till the applicant recovers his mental health.
9. Considering the facts and circumstances of the case, particularly this fact that the applicant is under going treatment since 2014 and the trial against him is withheld because of unsoundness of his mind, this situation can not be allowed to continue in similar fashion for an indefinite period, some positive effort is required to be made so that applicant, who has been identified as of person of unsound mind recovers from ailment of unsoundness of mind and faces the trial. Solely for this purpose and for the reasons as aforementioned and also as per the provisions of Section 330 of Cr.P.C., this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
10. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

11. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- by father of the applicant with one surety in the like sum to the satisfaction of the concerned trial Court.
12. The applicant shall be given in custody of the father of the applicant on conditions that he shall take proper care of the applicant by providing him proper medical treatment for his recovery, he shall also take care of that applicant so that he does not harm himself or any other person on account of unsoundness of his mind and shall take special care that applicant does not abscond from his custody during the period of bail so granted. This condition is also imposed that father of the applicant – Shri K.K. Patel shall submit report every month on the date fixed by the trial Court about the progress in treatment going on with respect to the applicant, so that the trial can be resumed on his recovery.
13. Certified copy as per rules.

(Rajendra Chandra Singh Samant)
Judge