

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3938 of 2017**

Durgesh Sinha S/o Dev Prasad Sinha Aged About 23 Years R/o Village Durre Banjari, Police Station And Tahsil Chhuriya, District- Rajnandgaon, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Of Police Station Chhuriya, District- Rajnandgaon, Chhattisgarh

---- Respondent

For applicant	Mr. Abhishek Sharma, Adv.
For Respondent/State	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****25/7/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 24-11-2016 in connection with Crime No. 258/2016 registered in PS Chhuriya, Distt. Rajnandgaon (CG) for offence punishable under Section 457, 380, 34 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the matter is pending before the JMFC Rajnandgaon as Cri. Case No. 4169/2016. In the present matter, there are two co-accused Narayan and Naresh. Other three co-accused persons are juvenile hence police filed separate charge sheet before the Juvenile Justice Board. Learned counsel submits that applicant is also involved in Crime No. 336/2016 in which charge sheet was filed against the present applicant and one Durgesh Sinha which is registered as Cri. Case no. 48/2017 and the JMFC Rajnandgaon vide judgment dated 20-7-2017 has acquitted the present applicant and the co-accused for the charges under Section

457, 380, 34 of the IPC. Co-accused Narayan and Naresh were also involved in two matters and both of them have been granted bail by the Court of Sessions vide Bail Petition No. 278/2017 dated 8-5-2017, 204/2017 dated 12-4-2017, bail petition No. 160/2017 and 161/2017 dated 23rd March, 2017. He further supplements that as per allegation, articles worth Rs. 30 to 35 thousands have been stolen which is surfaced in the FIR and the joint memorandum and joint seizure. As per joint seizure most of the property is recovered. The applicant is in custody since long. He will not commit in future. He may be granted bail during trial.

4. Per contra, learned counsel for the respondent/State opposes arguments advanced on behalf of the applicant on the basis of the manner the theft is committed.
5. Perused the entire material.
6. As the applicant is in custody since 8 months and 1 day, charge sheet is filed, trial may take some time and as submitted, the applicant is acquitted in another matter registered against him, co-accused granted bail by the Court of Sessions and the property stolen almost recovered and as submitted he will not commit any offence in future, 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. 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 JMFC Rajnandgaon CG for his appearance before the said Court regularly as and when directed by the said Court.
7. 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. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Chhuriya, Distt. Rajnandgaon on every 1st and 3rd Monday at 11 am positively till trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.
9. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge