

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5499 of 2017**

- Javed Akhtar Khan, S/o Sher Bahadur Khan, Aged About 31 Years, R/o Kirodimal Nagar, Khapra Nhatti Raigarh, District-Raigarh, Civil & Revenur District- Raigarh, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through: Police Station Akaltara, District-Janjgir- Champa, Chhattisgarh.

---- Respondent

For Applicant : Shri Rajendra Tripathi, Advocate.

For Non-applicant/State : Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12.09.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No. 360/2017 on 24/05/2017 by Police Station Akaltara, Distt. Janjgir-Champa (C.G.) for the offence under Section 457, 380 & 411 of the Indian Penal Code.

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet against total 4 accused persons including present applicant which is pending before the Judicial Magistrate First Class, Akaltara, Janjgir-Champa (C.G.) as Criminal Case No. 360/17, the Trial Court has framed charges against the present applicant, charges under Section 411 of the

Indian Penal Code only has been framed. As per allegation, applicant dishonestly knowing that the 5 mobile of worth Rs.28,600/- are the theft property received those 5 set of mobile. The applicant is not the main accused and his case is distinguishable from the other 3 co-accused against whom charges of tress-passed and theft has been levelled. Earlier, he had preferred MCRC No. 4795/17 on 26/07/2017 as instructed, the said MCRC was disposed of as withdrawn without any appreciations on its merits, thereafter the applicant filed petition to enlarged him on bail before the Trial Court and Court of Sessions. Application filed under Section 437 & 439 has been dismissed by the concerned Lower Court, he is the first offender and he will not commit any offence in future, as the trial may take some time, he may be granted bail during the trial.

4. Per Contra, learned counsel for the respondent/State opposes the argument advanced on behalf of the applicant, as he dishonestly received the stolen property, though fairly conceded that there is no criminal antecedent of the applicant.

5. Perused the entire material.

6. As the applicant is the first offender, he is in custody for 3 months till date, charge sheet has been filed, trial may take some time, applicant is facing trial under Section 411 of the Indian Penal Code. Value of the property recovered is Rs.28,600/- and there is no criminal antecedent reported against the applicant, on consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that he shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC allowed.

8. 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 Judicial Magistrate First Class, Akaltara, Janjgir-Champa (C.G.) for his appearance before the said Court regularly as and when directed by the said Court.

9. 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. It is further directed that till the conclusion of the trial, present applicant shall mark their appearance before the Station House Officer/IO, Police Station Akaltara, Distt. Janjgir-Champa **on First and Third Monday of every month at 11:00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Akaltara, Distt. Janjgir-Champa as directed, the concerned police may inform the trial Court for the act and if their non-appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without

further reference to the Bench, under intimation.

11. Register (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge