

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3592 of 2020**

- Ankit Verma @ Chirai S/o Raghunandan Aged About 29 Years R/o Yadav Nagar Tifra P.S. Sirgitti District Bilaspur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through P.S. Sirgitti District Bilaspur Chhattisgarh

---- Respondent

For Applicant	:	Shri Amit Kumar, Advocate
For State	:	Shri Ravish Verma, Govt. Advocate
For Objector	:	Shri Syed Ishhadil Ali in person

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****28/08/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.100/2020 registered at Police Station – Sirgitti, District – Bilaspur (C.G.) for alleged commission of offences under Section 294, 323, 307, 506, 34 of IPC.
2. Prosecution case is that the applicant and co-accused assaulted two victims. According to the prosecution, the applicant assaulted Ishhadil with the help of broken bear bottle resulting in injury on the left side of his chest. It is the allegation of the prosecution that the injuries were inflicted with intention to cause death.
3. Learned counsel for the applicant submits that the manner in which and circumstances in which the incident happened, it cannot be said that there was any intention to cause death. It is submitted that in the matter of quarrel, the applicant and co-accused are stated to have assaulted. He would further submit that according to the doctor's report, injuries found on the body of the victim are simple in nature and none of the injuries is grievous nor any opinion of the doctor that the injuries could have cause death. It is also submitted that the applicant has remained in jail since 11/03/2020 and investigation is complete and charge sheet has also been filed.

4. On the other hand, learned State counsel submits that the two injured witnesses namely Ishhadil and Nitesh, both have stated that the applicant and other accused assaulted them and the present applicant assaulted with broken bear bottle. He would submit that in view of the criminal overt act of the applicant in assault with the broken bear bottle, *prima facie* case of intention to cause death is made out.

5. The objector in person submits that in the present case, assault was given to him with the help of broken bear bottle in which he sustained injury. Therefore, if he would not have rescued at the spot, the applicant would have killed him. Therefore, irrespective of the nature of injury, use of broken bear bottle to give assault itself is indicative of intention to cause death. He submits that he apprehends that if the applicant is released on bail, he may misuse his liberty and may cause further injury also to the life and limb of the objector. He would submit that the objector has been receiving various telephone calls from various persons pressurising him to withdraw the objection. It is also submitted that the co-accused Gautam Lodhi had applied for grant of bail but his application has been dismissed as withdrawn.

6. Heard learned counsel for the parties, objector and also the material disclosed in the case diary.

7. On the *prima facie* considerations, it is found that on the date of Holi festival i.e. on 10/03/2020, the vehicle of the accused was dashed by the complainant which resulted in quarrel on the spot and in that process, the applicant is alleged to have used the bear bottle to give assault on the victim. The injuries found on the body of the victim are said to be simple in nature as disclosed from the MLC report read out before the Court by the State counsel. No any grievous injury has been found. Further, this Court also found that the accused has remained in jail since 11/03/2020 and investigation is complete and charge sheet has been filed.

8. Taking into consideration the totality of circumstances, particularly the pre-trial detention, charge sheet having been filed and also injuries are said to be simple in nature and that there is no material on record much less any police report filed by the complainant regarding any threat given to him by the accused, at this stage, this Court is inclined to grant bail to the applicant. It has to be noted that the bail application of co-accused was dismissed as withdrawn and not on merits.

9. Accordingly, the application 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/- along with

one local surety for the like amount to the satisfaction of the Trial Court on the condition that -

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) He shall not make any attempt to tamper with the prosecution witnesses.

This bail is being granted on a specific condition that if, in case, the applicant is found misusing his liberty or there is any report made by the complainant that after his release, the applicant is threatening the witnesses or otherwise attempting to tamper with the prosecution witnesses, it would be open for the State / complainant to seek cancellation of bail.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge