

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.R. No. 534 of 2021**

Animesh Shukla S/o Late Ashok Shukla aged about 27 years
R/o Shriram Residency, Mangla, Police Station-Civil Line,
District – Bilaspur (C.G.)

---- Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police
Station, Civil Line, Bilaspur, District - Bilaspur (C.G.)

----Non-applicant

For Applicant : Shri Umakant Singh Chandel, Adv.
For respondent/State : Shri D.K. Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice NK Chandravanshi**Order On Board****27-9-2021**

1. This criminal revision has been filed against the order dated 3-8-2021 passed by the 5th Addl. Sessions Judge, Bilaspur in ST No. 63/2021, whereby application under Section 330 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') filed by the applicant supported with affidavit of his mother, has been dismissed.

2. Brief facts of the case are that ST No. 63/2021 (State of CG -v- Animesh Shukla) under Section 307 of the Indian Penal Code (in short 'IPC') is pending before learned 5th Addl. Sessions Judge, Bilaspur at the stage of charge. In that case, an application under Section 329 of the Cr.P.C. was filed by the applicant with support of affidavit of his mother Smt. Smriti Shukla, wife of late Ashok Shukla with prayer that the applicant was a person of unsound mind from prior to this incident and was under treatment in this regard, therefore, he be sent to mental hospital for medical examination of his unsoundness of mind and until his treatment, trial may be stayed. On this application, the applicant was sent to State Mental Health Hospital, Sendri, Distt. Bilaspur and remained admitted there from 13-7-2021 to 24-7-2021. After examination and treatment, the doctor gave his assessment report wherein it

has been opined that '*Patient is suffering from multiple substance dependents syndrome with substance induced mania with psychotic symptom with ? ASPD*'. Thereafter, the applicant filed an application under Section 330 of the Cr.P.C. with support of affidavit of his mother mentioning that as per medical report of the State Mental Health Hospital, Sendri, Distt. Bilaspur, the applicant is a person of unsound mind and he is not capable to defend himself. Therefore, he be released on bail, because his mother is ready to take his responsibility and to make him available for adequate medical treatment. After considering the application, learned trial Court dismissed the application, observing that as per medical report, attitude of the applicant is violent, therefore, he may harm himself and others also, thus, it is not proper to allow the application. However, the trial Court directed the jail authorities that for 2 months the applicant be sent to State Mental Health Hospital, Sendri, Bilaspur for 15 days in each month for extensive treatment of his mental illness. Hence, this revision.

3. Learned counsel for the applicant submits that mother of the applicant is ready to take responsibility of applicant and she will also undertake to obtain regular outpatient psychiatric treatment of applicant from nearest medical facility and also to prevent him from doing injury to himself or to any other person. Since, the applicant is suffering from unsoundness of mind and he is not capable to defend himself, therefore, looking to the prayer of mother of the applicant, learned trial Court ought to have allowed the application but without considering properly the provisions of Section 330 of the Cr.P.C., it dismissed the application by the impugned order which is erroneous and not sustainable.

4. Per contra, learned State Counsel submits that as per medical report annexed with the memo No. 1927 dated 24-7-2021 of Dr. Satish Shrivastava, State Mental Health Hospital, Sendri, Bilaspur, it was informed to the doctor by the mother and patient himself that the applicant has a history of consumption of alcohol, ganja, Corex, Nitrovalate, Bidi, Charas, since last 6-7 years

approximately. There was also complained about him that he has behaviour of irritability, laugh to self, abusive, assaultive behaviour, suspiciousness :- mother is having affair with someone, people talk about him, hearing of voices not present in surroundings, seeing persons not present in surroundings, used to quarrel with outsiders very frequently, went to jail 3-4 times, cut with forearms during anger outburst, there is family history of psychiatric illness in father, who committed suicide and elder sister. After examination, the doctor opined that '*Patient is suffering from multiple substance dependents syndrome with substance induced mania with psychotic symptom with ? ASPD*'. Learned counsel for the State also submits that as per case diary, 10 cases under various sections of IPC and other acts including one under Section 307 of the IPC are pending in Courts against the applicant. Therefore, looking to above facts, it will not be proper to grant bail under Section 330 of the Cr.P.C. to the applicant. Hence, the impugned order passed by learned Court below does not call for any interference of this Court in exercise of its revisional jurisdiction.

5. I have heard learned counsel for the parties, perused the case diary and original record of ST No. 63/2020, including medical report and other documents appended.

6. A perusal of case diary and list of cases pending against the applicant shows that 10 other cases are pending in Courts against him under the IPC and other acts including one under Section 307 of the IPC. It means, present case is 11th case against him, that too, under Section 307 of IPC. Large number of the cases against him shows that the applicant's behaviour is abnormal and violent, as has been stated in his aforesaid medical report. In medical report, it has been opined by the doctor that he is suffering from multiple substance dependents syndrome with substance induced mania with psychotic symptom with ? ASPD. It has also been mentioned that he used to quarrel with outsiders very frequently and also injures himself when anger outbursts

upon him. It has also been mentioned that he suspects that his mother is having affairs with someone, therefore, people talk about him. Looking to the above facts, especially regarding suspicion about his mother, it will not be proper to grant him bail in the supervision of his mother, that too, looking to the anger attitude and looking to the number of cases pending in Court against him, it cannot be denied that at any point of time when his anger would be burst, he may cause damage to himself or his family members or any other person upto any extent, and considering these facts also, it is not proper to release him on bail under Section 330 of the Cr.P.C.

7. In view of above, I do not find that the trial Court has committed any error in passing the impugned order. Therefore, the revision fails and is dismissed.

**Sd/-
(NK Chandravanshi)
JUDGE**