

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 978 /2015

Rudmal Agrawal, S/o. Late Bihari Lal Agrawal, Aged About 62 Years, R/o. Sitamani, Main Road, Korba, Police Station- City Kotwali, Tahsil Korba, Civil & Revenue District Korba (Chhattisgarh).

---- Applicants

Versus

1. State Of Chhattisgarh, Through the Collector/District Magistrate, Korba, District Korba (Chhattisgarh)
2. Mohan Lal Agrawal, R/o. Late Mandan Lal, Aged About 54 Years, R/o. Sitamani, Main Road, Korba, Police Station City Kotwali, Tahsil Korba, Civil & Revenue District Korba (C.G.)

---- Respondents

For Applicant : Dr. N.K.Shukla, Senior Advocate with Mr. Shiv Shankar Tiwari, Advocate

For Respondent No.1 : Mr. Neeraj Jain, Govt. Advocate

For Respondent No.2 : Mr. Brijesh Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/12/2015

1. Apprehending arrest in connection with Criminal Case No.1543/2015 (wrongly mentioned as 1542/2015) pending in the Court of Chief Judicial Magistrate, Korba, for the offence punishable under Section 420 & 467 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. Learned counsel for the applicant submits that a complaint was filed by Mohan Lal Agrawal, Respondent No.2, wherein it is stated that on 21.02.2012 an agreement was forged and fabricated describing Mohan Lal Agrawal as seller but he had not executed any agreement. It was stated in the complaint that the present applicant was the author to prepare such agreement and signed as a witness to the agreement. It is further contended that it is not a

case of the respondent/complainant that the agreement was not executed on 21.02.2012 as per the statement of the Notary. It is stated that it is a counter attack to an earlier transaction between the parties since initially the applicant had filed a complaint under Section 138 of Negotiable Instrument Act against the complainant as the cheque was bounced. After registration of complaint under Section 138 of Negotiable Instrument Act, a complaint was filed by the respondent/complainant that his signed cheque book was lost, which the applicant had misused and inserted the amount and used it in the proceeding under Section 138 of Negotiable Instrument Act. The said complaint filed by the complainant whereby it was averred that lost cheques were misused by applicant under proceeding under Section 138 of Negotiable Instrument Act was dismissed. Against the said dismissal order, the respondent/complainant herein Mohan Lal Agrawal preferred a Cr.M.P. No.415/2015, which was dismissed by this Court only on 29.06.2015 and immediately thereafter this instant complaint has been filed wherein the agreement is alleged that it is forged. Therefore, it is submitted that the practice has been adopted as an arm twisting method and the applicant has been falsely implicated. It is further stated that against this applicant the agreement dated 21.02.2012 was said to be executed in between Mohan Lal Agrawal and Naman Builders wherein the applicant was stated to be an attesting witness and it is not a case that the agreement itself dated 21.02.2012 was challenged but it was stated that period of agreement was extended. Therefore, he submits that the applicant has been falsely implicated and, as such, he may be extended the benefit of anticipatory bail.

3. Learned counsel for the Objector vehemently opposes the argument and submits that on 21.02.2012 no agreement at all was

executed by Mohan Lal Agrawal and the agreement which was stated was a forged as someone else was produced as Mohan Lal Agrawal, which was at the behest of the applicant Rudmal Agrawal as Rakesh Goel is the son-in-law and he was shown as purchaser. It is further contended that to the credit of the applicant criminal cases were registered. He further submits that reports have been made against the applicant by the complainant to the Collector and the Police Officers that threat has been extended. He further submits that earlier also he was involved in a case under Section 3/7 of Essential Commodities Act in Crime No.202/87 and 207/87 and he was convicted for the Gambling Act as the raid was conducted in his house. It is further submitted that on earlier case also the applicant was tried under Section 363, 366 & 376 read with Section 34, 201, 368, 214, 216, 176 & 187 wherein he was tried however he was acquitted. It is further submitted that though the applicant claimed to be a President of Agrawal Samaj but as per the information obtained under the Right to Information Act, he do not hold any such post. He further submits that since the complainant has been threatened, therefore, he may not be extended the benefit of bail by way of Section 438 of Cr.P.C.

4. Learned State counsel supports the argument of the learned counsel for the Objector.
5. I have heard learned counsel for the parties and perused the case diary.
6. In the complaint, it is alleged that the applicant has prepared a false agreement dated 21.02.2015 wherein forged signatures have been affixed of that of the complainant which was noticed. Perusal of the affidavit by State would show that the following cases were registered against the applicant.

- (i) Crime No.836/99, registered at Police Station City Kotwali, Korba, District Korba (C.G.) for offence under Section 3 of the Gambling Act.
 - (ii) Crime No.83/98, registered at Police Station City Kotwali, Korba, District Korba (C.G.) for offence under Section 3, 4 of the Gambling Act.
 - (iii) Crime No.31/85, registered at Police Station City Kotwali, Korba, District Korba (C.G.) for offence under Section 353, 323 of Indian Penal Code.
 - (iv) Crime No.202/87, registered at Police Station City Kotwali, Korba, District Korba (C.G.) for offences under Section 3/7 of the Essential Commodities Act.
7. Alongwith the application an order of sessions case is also filed wherein the order was passed on 15.06.1989 and the applicant has been said to be acquitted of the charges, which were under Section 363, 366 & 376 and other sections. Also perused the complaint filed by the complainant which is said to have been received by the Collector and S.P. on 23.09.2015 wherein the allegations are made that the complainant has been threatened.
8. Taking into totality of the case and further taking into fact that to the credit of the applicant five criminal cases were registered though the crimes are up-till 1999 but at the same time while considering the anticipatory bail, it will play a major role for consideration of Section 438 of Cr.P.C. and it cannot be ignored fully. Taking into consideration past antecedents and facts as alleged in the present case, I am not inclined to grant anticipatory bail to the applicant, as perusal of documents of complaint cases would indicate that it is not a case wherein it can be assumed that no prima facie case appears to exists so as to consider the petition under Section 438 of Cr.P.C. Consequently, I am not inclined to allow the application.
9. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge