

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 754 of 2015

Sarman Singh Kanwar S/o Late Anand Singh Kanwar Aged About 71 Years R/o Village Bhaismal, Tah. - Korba, Police Station Urga, Civil And Rev. Distt. Korba Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Kartala, Distt. Korba Chhattisgarh.

---- Respondent

Shri Awadh Tripathi, counsel for the applicant/s.
Ms. Shubha Shrivastava, Panel Lawyer for the State.

Order On Board

19/08/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.49/14 registered at police station- Kartala, Distt.- Korba (CG) for alleged commission of offence under Section 341, 294, 323, 506, 427, 147, 148, 149, 342, 324, 365, 395 and 397 of IPC.

2. Case of the prosecution is that on 22/04/14 at around 10:30 PM, the applicant along with other persons is said to have stopped the car in which the complainant - Tarun Mishra was travelling and along with the complainant, some more persons were also in their respective cars moving along with the car of the complainant, and that when the complainant reached Borbadi at Baniyapara (Korba), it is alleged that the present applicant and others had stopped / blocked the road and the moment, the complainant and one Shiv Jaiswal, who was in a car moving behind the car of the complainant, both came out of their car, it is said that present applicant and a large mob attacked the complainant's vehicle and the complainant and other persons with laathi, rod and club etc., causing injuries to the complainant and the other persons. It is alleged that subsequently, when the complainant had gone to the police station, there also the present applicant along with other persons is said to have used abusive, indecent and obscene language

and had also threatened the complainant of dire consequences and have also threatened him of his life, on the basis of which, an FIR was lodged and the offences punishable under Sections 147, 148, 149, 294, 323, 324, 365, 395, 506 of IPC have been registered against the present applicant and other accused persons.

3. Learned counsel for the applicant submits that it is a case of sheer political vendetta and the complainant who is a staunch supporter of the ruling party in the State, has tried to malign the image of the present applicant and others so as to encash the same for the parliamentary election which was to be held immediately on the second day of the date of incident.

Learned counsel further submits that it is also a case where infact, the actual story was that the complainant and a group of people along with the complainant were distributing some materials in the local area on the penultimate date of canvassing i.e. on 22/04/14, and it is at that juncture, a large number of people / mob objected them from distributing the materials in lieu of votes and in between, there appears to have some scuffle taken place and, therefore, in order to get rid of the allegation of being caught distributing the materials to the local residents in lieu of votes, the complainant as a counter blast has filed a fake and false complaint against the applicant (who belongs to the opposite political party from that particular local area) as well as other persons.

Learned counsel for the applicant also submits that a plain reading of the FIR itself would show that the present applicant was not present at the place of incident where it is alleged that the complainant party were attacked by the mob lead by the present applicant and others.

It is also submitted by learned counsel for the applicant that from the plain reading of the FIR itself would show that initially the present applicant was not named while registering the FIR, however, subsequently, the complainant has improved his version and has implicated the present applicant, who belongs to the opposite political party, and other sitting MLAs, namely -Shyamlal Kanwar and Rajendra Kumar Rai, and the other persons also alleging to have played an active role on the attack made by a mob on 22/04/14.

Learned counsel for the applicant, therefore, prays that taking into consideration all these facts, the applicant may be granted advantage of anticipatory bail.

4. Learned counsel for the State, however, opposing the bail application submits that the nature of allegation leveled by the complainant and the other witnesses being of serious nature, the present applicant is not entitled to get the anticipatory bail.

Learned counsel for the State took the Court through the statement of the complainant and also the other witnesses and referring to the names which have come out in the statements, submits that from the said statements itself it is evidently clear that the present applicant is also involved in the attack on the complainant and other persons and, therefore, prays for rejection of anticipatory bail application.

5. On due consideration of the statements made by either side and on perusal of the case diary, particularly, from the FIR itself it reflects that the present applicant was not present at the time when the alleged incident of assault on the complainant took place at Borbadi in Baniyapara (Korba). From the plain reading of the FIR, it also reflects that the said complainant himself while lodging FIR at the first instance has stated that the present applicant was found at the police station when the complainant had reached the police station, which itself prima facie gives an inference that perhaps the present applicant had gone the police station to lodge a report against the complainant for illegally distributing the materials during election time; secondly, it also gives a clear prima facie inference of the applicant not being available at the place of incident when the complainant and others were attacked. As per the FIR, allegation against the present applicant starts from the time when the complainant much after the incident of being attacked by a mob at around 10:30 PM, had reached the police station where it is alleged by the complainant himself that the present applicant and some other accused persons were already in the police station and subsequently it is alleged that the present applicant and other accused persons at the police station on seeing the complainant and the other persons along with the complainant had threatened them of dire consequences and have also threatened the complainant of his life.

6. From the given facts and circumstances of the case, prima facie, it appears to be a case filed during the election time to settle the political vendetta between the two rival political parties. Thus, for the foregoing reasons and also looking to the age of the present applicant, who is aged about 71 years, I am of the considered view that it is a fit case where the present applicant can be granted the advantage of

anticipatory bail.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava
Judge