

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C(A) No. 1154 of 2015

Nathuram Jain, S/o. Chanduram, aged about 60 years, Caste-Kalar, Resident of Village Bheerawahi, Police Station – Kanker, Tehsil and District- North Bastar Kanker (C.G.)

----Applicant

Versus

State of Chhattisgarh Through the Police Station Kanker District North Bastar Kanker (C.G.)

---- Respondent

For Applicant :- Mr. Raja Ali, Advocate
For Respondent/State :- Mr. Ashish Shukla Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

18/12/2015

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 140/2012, registered at Police Station –Kanker, District – North Bastar, Kanker (C.G.) for offence punishable under Sections 120- B, 420,467, 468, 469 and 471 of IPC and 3(2)(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. As per the prosecution case, in short, in the year 2005, a loan was sanctioned to the applicant for purchasing of tractor trolley. During the loan one Mangiyaram was stood as surety to the borrower and the loan was issued in favour of the applicant. In the event of none payment of the loan a recovery notice was issued by the bank to repay the loan. The complainant made a report before SDOP Kanker, after investigation SDOP Kanker submitted its report to the concerned Police. Accordingly, the Police registered an offence punishable under section 420,467,468,469,120- B, 34 of IPC and 3(2)(5) of Scheduled Caste and

Scheduled Tribe (Prevention of Atrocities) Act, 1989 under crime No. 140/2012. Subsequently, the prosecution submitted charge sheet against the Gulam Qudratullah Khan and Raj Sharma and the trial was conducted against the said two accused. In which during evidence the prosecution has filed an application under section 319 of Cr.P.C. against the present applicant on the ground that there is difference in the statement of the applicant thereafter he shall be liable to be prosecuted in the matter alongwith the other co-accused.

4. Counsel for the applicant submits that the applicant was named as prosecution witness on behalf of the prosecution and he was examined before the Court in Special Sessions Case No. 14/2012. He further submits that after examining of the prosecution witness, the prosecution has filed an application under section 319 of Cr.P.C. wherein the trial Court has ordered to prove charge under section 120 B, 420, 467, 468, 469, 471 of IPC and 3(2)(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the present applicant. He further submits that the applicant has adduced his evidence before the Court and the applicant regularly attending the hearings of the Court. He further submits that the evidence in this case are in documentary in nature and no further custodial interrogation is required and taking the conduct of the applicant he himself appearing before the Court; therefore, he may be given the benefit of the anticipatory bail.

4. State counsel opposes the prayer for grant of anticipatory bail.

5. I have perused the order sheet which shows that the applicant was arrayed as an accused as he did not support the case of the prosecution. Taking the facts and circumstance of the case and the nature of conduct of the applicant as he himself appearing before the Court and the fact that

all the evidences are documentary in nature and no further custodial interrogation is required; therefore, this Court is of the opinion that it is a fit case where the applicant can be extended the benefit of anticipatory bail.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:-

- (i) that the applicant shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE