

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1250 of 2015

1. Mohit Koushal, aged 23 years, son of Jagrakhan Koushal,
2. Niraj Murty, aged 25 years, son of Shri Raj Murty,

Both residents of Pandri Talab, Durga Nagar, P.S. Pandri Mova, Civil & Revenue District Raipur (C.G) **--- Applicants**

Versus

State of Chhattisgarh through P.S. Telibandha, Civil & Revenue District Raipur (C.G). **--- Respondents**

For the applicants : Mr. Devershi Thakur, Advocate.

For the Respondent : Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.12.2015

1. Apprehending arrest in connection with Crime No. 350/2015 registered at P.S., Telibandha, Distt. Raipur (C.G) for the offences punishable u/s 394 of IPC, the applicants have filed this application u/s 438 Cr.P.C.
2. As per the prosecution case, on 30.09.2015 at about 11 o' clock the applicants assaulted one Ankit Dwivedi while he was counting money on road for filling diesel in his car and thereafter looted Rs. 5000 from him, thereby the offence is committed. The report was made on 01.10.2015 at about 12.20 p.m. at Telibandha Police station, Raipur
3. Learned counsel for the applicants submits that in the FIR of Crime No. 118/2015 it is stated that at about 11.35 p.m. he was at Devendra Nagar Police station for which a report was already made against the applicants and therefore the applicants cannot be said to be present in the night of 30.09.2015 at 11.30 p.m. at the scene of crime took place at Telibandha as he was in the police station of Devendra Nagar in connection with Crime No.118/2015. He therefore prays for

grant of anticipatory bail.

4. On the other hand, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary as also the FIR. The copy of FIR which is placed by the applicant in respect of FIR of crime No. 118/2015 registered by one Mukesh Roy which shows that the report was filed on 01.10.2015 at about 12.15 p.m. wherein the time of incident is stated to be 11.35 a.m., that is in the night of 30.09.2015. In the FIR of present crime No.350/2015 registered at P.S. Telibandha, it is shown that the present crime was committed in the night of 30.09.2015 at about 11 o' clock at Telibanda, therefore, the submission of the applicant that the applicant was present at 11.30 p.m. at Devendra Nagar Police station cannot be accepted in view of the fact that the report itself was made on 01.10.2015 at about 12.15 p.m.. Consequently taking into the statement of the complainant, I am not inclined to extend the benefit of provisions of section 438 CrPC.
6. Accordingly the application is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**