

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 970 of 2015**

Jamaluddin S/o Shri Majid Khan Aged About 39 Years R/o Shahid Hamid Nagar, Nehru Nagar, Raipur, District - Raipur (Chhattisgarh).

**---- Applicant**

**Versus**

State Of Chhattisgarh Through : Station House Officer, Police Station : Tikrapara, Raipur District - Raipur (Chhattisgarh).

**---- Respondent**

---

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For Applicant        | : | Smt. Fouzia Mirza, Advocate     |
| For Respondent/State | : | Shri R.K. Jaiswal, Panel Lawyer |

---

**Order On Board**

**06/10/2015**

Heard.

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.435/2015, registered in Police Station- Tikrapara, Raipur, District-Raipur, for alleged commission of offence under Section 392 IPC.
2. Case of the prosecution, in brief, is that the applicant looted a bus subject to hire-purchase agreement with M/s. Cholamandalam Investment and Finance Company Ltd.
3. Learned counsel for the applicant submits that under the valid authority from the finance company, the applicant has only repossessed the bus without looting any other valuable property by use of any criminal force or assault. It is submitted that later, upon negotiation, the vehicle is still being plied and in possession of the owner. Learned counsel for the applicant relies upon the judgment of the Supreme Court in the case of *Anup Sarmah Vs. Bhola Nath Sharma and Ors.*, (2013) 1 SCC 400 to submit that in such cases, offence would not be made out.
4. On the other hand, learned counsel for the State submits that in the garb of repossession of vehicle, the applicant could not repossess the vehicle in the manner which has been done. Therefore, present is a case of commission of offence under

Section 392 IPC.

5. Taking into consideration the submissions made by learned counsel for the parties, the judgment in the case of *Anup Sarmah* (supra) and that there is no allegation of use of criminal force, assault, threat or looting any valuable property, cash or any other item belonging to the owner, I am inclined to allow the application.
6. The application is accordingly 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 by the arresting officer on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:
  - (i) the applicant shall make himself available for interrogation by the police officer as and when required;
  - (ii) 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 from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-  
**(Manindra Mohan Shrivastava)**  
**Judge**