

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 480 of 2016

- Abdulla Ansari S/o Mohammed Haidar Ali Ansari Aged
About 24 Years R/o Pali Road, Dipika, Police Station
Dipika, District Korba Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh through Station House Officer,
Police Station - Pali, District Korba Chhattisgarh
--- **Respondent**

For the applicant : Mr. Sudhir Kumar Bajpai, Advocate.
For the Respondent : Mr. Omprakash Sahu, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01.07.2016

1. Apprehending arrest in connection with Crime No. 35 of 2015 registered at Police Station Pali, District Korba (C.G) for the offences punishable u/ss 420, 467, 468, 471, 120-B, 34 of IPC & Section 21(1)(4) of Mines and Minerals (Development and Regulation) Act, 1957, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, on receipt of information that the applicant who is owner of the vehicle bearing Regn.No. C.G.12-S/1418 had deployed the vehicles for lifting of coal, a search was conducted on 18.12.2015 and while the coal was checked, the vehicle was found to be overloaded and the coal was weighed to be 44.760 Metric Tonnes thereby 4.760 Mts was found overloaded for which a fine of Rs.21,000/- was imposed. During further enquiry the invoice was produced by the driver along-with transport pass and it was found that the

transport pass was forged and it was not issued by SECL and thereby the applicant along-with other co-accused have committed offence.

3. Learned counsel for the applicant submits that the applicant is owner of the vehicle and he has leased out the vehicle to one Laxminarayan Thakur who was authorized lifter on behalf of Indramani Minerals Pvt. Ltd., which purchased the coal on *e-auction* and the facts remain that the applicant was not apprehended on the spot and the vehicle was given on rent to Laxminarayan Thakur for transportation of the coal, therefore, no allegation can be attributed to this applicant as he was neither beneficiary nor has done anything with the coal. He further submits that the enquiry also revealed that the transport pass was issued for Vehicle bearing No.C.G.10-GP/970 and not for vehicle No. C.G.12-S/1418 which was leased by the applicant, therefore, he may be enlarged on bail.
4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement of Laxmi Thakur wherein it is stated that on his DO, 140 vehicles went inside the mines to load the coal and the Vehicle No. C.G.12-S/1418 was taken on rent.
6. Taking into fact that the vehicle was taken on rent and the applicant is stated to be owner of the vehicle and he was not apprehended on the spot, I am inclined to extend the benefit of section 438 Cr.P.C., to the applicant.
7. Accordingly, the application is allowed and 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 officer arresting him on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating 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/her from disclosing such facts to the Court or 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.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**