

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C (A) No. 1291 of 2015

1. Aashish S/o Shri Hanumandas Gupta, Aged About 28 Years R/o Guptapara Pandatarai, Tahsil Pandariya, District Kabirdham (Chhattisgarh)
2. Rajiv Sharma S/o Shri Ramrup Sharma, Aged About 30 Years R/o Raiwapara, Thana Pandatarai, Tahsil Pandariya, District Kabirdham (Chhattisgarh)

---- Applicants

Versus

State of Chhattisgarh Through Station House Officer, Police Station Kawardha, District : Kabirdham (Chhattisgarh)

---- Respondent

For Applicant	:-	Mr. Y.C. Sharma, Advocate.
For Respondent/State	:-	Mr. Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

22/01/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No. 347/2015, registered at Police Station – Kawardha, District – Kabirdham (C.G.) for offence punishable under Section 420/34 of Indian Penal Code.
2. Case of the prosecution, in brief, is that the complainant lodged a report that he has purchased a Bajaj Avenger motorcycle 220 CC on 09.06.2015 and initially, the amount was paid and the said vehicle was taken. Subsequently, it was found that the said vehicle was second hand and he demanded the paper of the said vehicle but the applicants did not provide any document in respect of the said vehicle. The complainant wanted black colour of motorcycle, for which the complainant had paid Rs.

50,000/- on 10.06.2015 and further two installments of Rs. 20,000/- on 10.07.2015 and Rs. 23,000/- on 10.08.2015. The applicants by knowing fully well the fact that the vehicle was old but saying it to be a new motorcycle and sold it and cheated the complainant. Subsequently, the case was registered for the offence punishable under 420/34 of IPC.

3. Counsel for the applicants submits that the applicants have been falsely implicated in this case. He further submits that the complainant instead of taking recourse to an appropriate forum, if any, filed a criminal case, therefore, they may be given the benefit of anticipatory bail.

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

5. Having regard to the fact and circumstances of the case and considering the fact that the complainant had initially taken the motorcycle by making payment of Rs. 50,000/- and further paid two installments of Rs. 20,000/- on 10.07.2015 and Rs. 23,000/- on 10.08.2015 and thereafter, the report has been made, therefore, this Court is of the opinion, that prima facie it is a fit case where the applicants 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 applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- with one local surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:-

(i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;

(ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) the applicants shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-

(Goutam Bhaduri)

JUDGE

Santosh