

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1248 /2015

1. Banti Khandelwal, S/o. Late Tarachand Khandelwal, Aged About 40 Years, R/o. Khandelwal Colony, Durg (Chhattisgarh)
2. Jairam Nagpure, S/o. Barku Nagpure, Aged About 32 Years, R/o. Raipur Naka, Durg (Chhattisgarh)
3. Jitendra Singh, S/o. Tapeswar Singh, Aged About 43 Years, R/o. MIG- 1/695, Hudco, Bhilai, Distt. Durg (Chhattisgarh)
4. Daya Pandey, S/o. Janardan Pandey, Aged About 40 Years, R/o. Sindhiya Nagar, Durg (Chhattisgarh)
5. S. Baji, S/o. P. Shri Ranjan, Aged About 42 Years, R/o. LIG 90, Hudco, Bhilai, Distt. Durg (Chhattisgarh)

---- Applicants

Versus

State Of Chhattisgarh, Through: Station House Officer, Police
Station- Mohan Nagar, Durg, District Durg, Chhattisgarh

---- Respondent

For Applicants : Mrs. Fouzia Mirza, Advocate

For Respondent : Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21/01/2016

1. Apprehending arrest in connection with Crime No.450/2015 registered at Police Station- Mohan Nagar, Durg, District Durg (C.G.) for the offence punishable under Section 379, 34 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution story, in brief, a report was lodged by one Harinarayan Nishad that the applicants have cut the cable wire which belonged to Asian Cable and while the cable wire being cut they were caught red handed on the spot and subsequently the case has been registered.

3. Learned counsel for the applicants submits that the incident is said to have been happened on 21.10.2015 at about 11:47 p.m. whereas actually the applicant No.1 & 2, Banti Khandelwal and Jairam, were abducted by the complainant on 21.10.2015 in their vehicle bearing No.C.G.07 MA 2039 along with the other co-accused and they were subsequently recovered from the possession of the complainant; therefore, in order to bypass the complaint made, this false allegations have been alleged. Learned counsel relied on the memo of the Station In-charge which was sent for the bail rejection of the complainant Ashok Sharma & Harinarayan wherein it was the case of the police that the applicant No.1 & 2, Banti Kandelwal & Jairam, were abducted and were assaulted. She further relied on the remand form wherein it is stated that the applicants were arrested on 22.10.2015 at 10:10 thereby would submit that how these applicants could have caught hold by the complainant on 22.10.2015 when they were under arrest. Therefore, she submits that completely false allegations have been leveled against the applicants.
4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perused the case diary and the FIR i.e. Annexure A-2, which was lodged by the applicants against the complainant wherein the report was made on 22.10.2015 for the alleged incident of 21.10.2015 at 11:47 p.m. which speaks about the abduction of two applicants. Further, the police memo also resisting the bail application of the complainant was perused wherein it is stated that at 11:45 p.m. the complainant has abducted two of the applicants. Consequently, the case was registered under Section 395, 365, 294 of IPC. Taking

into totality of the case, it appears that initially a report of abduction was made by the applicants and subsequently a report of theft of cable wire was made by the complainant. Therefore, taking into the facts and circumstances of the case and considering the documents which are placed by the applicants, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C.

7. Accordingly, the anticipatory bail application is allowed.
8. 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 furnishing a personal bond to a sum of Rs.25,000/- with one 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) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge