

COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 26 /2016

Mohammad Jamaluddin alias Jamaal, S/o. Shri Abdul Majid Khan, Aged About 39 Years, R/o. Chandni Chowk, Nehru Nagar, Police Station Khamtarai, Tehsil & Distt. Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Khamtarai, Tehsil & District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sunil Otwani, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07/04/2016

1. Apprehending arrest in connection with Crime No.471/2015 registered at Police Station- Khamtarai, District Raipur (C.G.) for the offence punishable under Section 392 of the 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 case, a report was made that the applicant has seized the vehicles by using force which was financed to M/s. Vineet Singh Construction Company as the repayment of loan was defaulted.
3. Learned counsel for the applicant submits that the applicant was off-roll employee of the L&T Finance Company and working in Infinity Services and because of the loan availed by the loanee from L&T Finance Company was not repaid, as per the hypothecation agreement, the vehicle was repossessed and therefore no offence has been committed by the applicant.
4. Per contra, 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. Perusal of the case diary and the documents nowhere it is established that the applicant was in role of the L&T Finance Company. According to the case diary it shows that one Nawaab Khan had made communication on behalf of the Infinity Services, Sector-1, Devendra Nagar, Raipur that he was authorized by the L&T Finance Limited to take possession of the vehicle. Perusal of the case diary would show that the applicant who has filed this application in person was not legally authorise to repossess the vehicle on behalf of L&T Finance Limited. The agreement of L&T Finance Limited was with that of Loanee and at this stage no nexus has been shown in between the L&T Finance Limited and this applicant in person. This might be a fact that L&T Finance Limited was authorised to re-possess the vehicle financed for non-payment but such clause of agreement has to be executed by the person authorised and it cannot be delegated to the muscle-man in person. Taking into fact that the matter is still being investigated and considering the documents, in the opinion of this Court, this is not a case where the benefit of Section 438 can be extended to the applicant, as perusal of the case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge