

COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 182 /2016

Keshav Yadav, S/o. Late Chamruram Yadav, Aged About 24 Years, R/o. Risaipara, Purv Masjid Gali, Dhamtari, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Police Station Dhamtari, District Dhamtari, Chhattisgarh.

---- Respondent

For Applicant : Mr. Anjinesh Shukla, Advocate
For Respondent : Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09/03/2016

1. Apprehending arrest in connection with Criminal Case No.1096/2015 registered at Police Station- Dhamtari (C.G.) for the offence punishable under Section 294, 324, 325, 506-B of IPC wherein it was observed by the trial Court that the case under Section 326 of IPC is made out, the applicant has filed this application under Section 438 of Cr.P.C.
2. Learned counsel for the applicant would submit that in the earlier occasion the applicant was regularly appearing before the Court in a criminal trial pending under Section 294, 324, 325, 506-B of IPC and by the order dated 30.11.2015, the trial Court observed that the offence under Section 326 of IPC is made out, therefore, the anticipatory bail application was filed. He would submit that no further investigation is necessary as the investigation is completed. At the stage of trial, the trial Court observed the fact that the offence is made out, therefore, if the charges are framed though the

applicant is appearing and if he is arrested, he may be enlarged on bail.

3. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that still till date the offence under Section 326 of IPC has not been framed and the applicant would get the opportunity of appearance and place his argument before the Court below and the application is premature.
4. Perused the order dated 08.12.2015 passed by the Additional District Judge, Dhamtari. The order records that the trial Court by an order dated 30.11.2015 observed that prima facie the case under Section 326 of IPC is made out and therefore the explanation was called for. Apprehending such framing of charge under Section 326 of IPC, the anticipatory bail application was filed which was rejected on the ground that the offence are still not to be made out and charge has not been framed under Section 326 of IPC.
5. Perusal of the order would show that on 30.11.2015 the Court has already observed and given its finding that the offence under Section 326 of IPC is made out, therefore, necessarily the application under Section 438 of Cr.P.C. would lie, as this is against the apprehension of any arrest. Taking into fact that the applicant is continuously appearing before the Court below in a criminal case No.1096/2015, it is directed that if the charges are framed under Section 326 of IPC, in the event of arrest, the applicant shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :
 - (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;

- (ii) that 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge