

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 836 /2016

Mukesh Kumar Chelak, S/o. Vinit Kumar Chelak, Aged About 22 Years,
R/o. Bharat Petrochemicals Industries Rawabhata, P.S. Khamtarai, Tahsil
& District Raipur, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant : Mr. Awadh Tripathi, Advocate.
For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07/10/2016

1. Apprehending arrest in connection with Crime No.28/2016 registered at Police Station- Khamtarai, District Raipur (C.G.) for the offence punishable under Sections 324, 307 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 case, on 02.01.2016 the complainant Bhagwat Sahu and others at about 11:40 p.m., in the night, entered into the house of the applicant and thereafter some scuffle took place and the applicant assaulted the complainant by way of knife, thereby, he was admitted to the Hospital for 10 days; consequently he tried to kill the complainant.
3. Learned counsel for the applicant would submit that the complainant and others entered into the house of the applicant to commit dacoity, therefore, in order to save, as a self-defence while the applicant being charged by knife, it was resisted and instead the applicant in such scuffle assaulted the complainant and by the time other villagers have also come, therefore, in a result, the applicant has not committed any offence as it was only resistance

to the crime, which was being committed. He further submits that five family members of the applicants were brutally assaulted by the dacoits; therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary and the documents. It appears that the complainant entered into the house of the present applicant alongwith other persons and tried to commit dacoity, which was resisted and in such resistance the complainant sustained injury. Taking into the nature of offence and degree of allegation against the applicant and the role played by the applicant, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.
6. Accordingly, the anticipatory bail 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 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, today.

Sd/-
(Goutam Bhaduri)
Judge

Ashok