HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 984 /2016

Nek Mohammad @ Hasim Ali, S/o. Iqbal Hussain @ Baitulla, Aged About 57 Years, R/o. Koriya Colliery, Police Station - Chirmiri, District – Koriya, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station - Chirmiri, District- Koriya, Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02/12/2016

1. Apprehending arrest in connection with Crime No.320/2015 registered at Police Station- Chirmiri, District Koriya (C.G.) for the offence punishable under Sections 420, 419, 467, 468 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, it is alleged that the applicant Hasim Ali personified himself as Nek Mohammad, Son of Baitulla had worked in the S.E.C.L. in the name of Nek Mohammad but he is son of Iqbal not son of Baitulla and he got the job in the year 1981.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated, in-fact the applicant was adopted by Baitulla and was married to his daughter while he was minor. Subsequently, the applicant got the job in S.E.C.L. of his own and though no fraud has been committed, he 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 contents of the report of Kushinagar Police wherein it is stated that the applicant was taken by Baitulla while he was minor and he was named as Nek Mohammad and was employed. Taking into such report, 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.

Sd/-
(Goutam Bhaduri)
Judge

Ashok