

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M. Cr. C. (A) No. 902 of 2017**

Dileep Roy S/o Premanand Roy, aged about 32 years, Occupation Constable; R/o Subhash Nagar, Banaras Road, Ambikapur; Police Station & Tahsil Ambikapur; District (Rev. & Civil) – Surguja, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through Police Station (Ajak) Ambikapur;
District (Rev. and Civil) Surguja, Chhattisgarh.

----Respondent

For Applicant	:	Shri S. D. Singh, Advocate
For Respondent/State	:	Smt. M. Asha, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29/11/2017**

The present application under Section 438 of Cr.P.C. has been filed seeking for grant of anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 17/2017 registered at P.S. Ambikapur, District (Revenue & Civil) Surguja (CG) for the offence punishable under Sections 294, 323, 325, 34 of IPC and Section 3 (1)(R)(S) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The allegation against the present applicant is that he in connivance with other accused persons is said to have assaulted the complainant Virendra Kumar on 15.07.2017.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the case and that there is no direct allegation or overt act against the applicant nor is there any such act reflected from the order of the Court below while considering the bail application, therefore, the

applicant is entitled for grant of anticipatory bail.

4. State counsel, however, opposing the bail application referred to the statement of the complainant Virendra Kumar made under Section 161 CrPC wherein he has categorically alleged that the present applicant along with 5-6 persons were standing on the road and later on the accused persons including the present applicant started assaulting him. State counsel referring to the 161 CrPC statement of the complainant specifically showed the portion where the name of the present applicant is reflected in the statement and the role played by him.

5. Given the said allegation against the present applicant in the case diary as well as 161 CrPC statement of the complainant, this Court is of the opinion that there appears to be prima facie strong material available in the case diary in respect of the offence to have been committed by the present applicant dis-entitling him for the benefit of Section 438 of CrPC.

6. Accordingly, the instant application filed under Section 438 CrPC stands rejected.

**Sd/-
(P. Sam Koshy)
Judge**