

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 1075 of 2017

Nandkishore Agrawal S/o Late Mohanlal Agrawal Aged About 55 Years R/o Parijat Extension Nehru Nagar Police Station Civil Lines Tahasil & District Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Kurud Dhamtari Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Ajay Kumar Dwivedi, Advocate.
For Non-applicant/State	:	Mr. D.R. Minj, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/12/2017

1. The present is an application under Section 438 of Cr.P.C. seeking for grant of anticipatory bail to the applicant who is apprehending his arrest in connection with Crime No. 160/1999, registered at Police Station Kurud, District Dhamtari, Chhattisgarh for the offence punishable under Sections 379, 34 of Indian Penal Code.
2. The fact of the case is that the present applicant is an accused person in an offence, the Crime number of which is 160/1999. The applicant was already granted bail on 18.02.2000. Subsequently on the date of filing of the charge sheet that was on 28.04.2000 the applicant was suppose to remain present before the trial Court, but he has defaulted in his appearance and since then he was declared absconding and finally vide order dated 02.12.2008 a permanent warrant of arrest has been issued against the present applicant and subsequently now the present application has been filed seeking anticipatory bail on the said ground.

3. According to the counsel for the applicant, the present applicant is a patient suffering from HIV disease and that he needs complete care and protection so far as his diet and atmosphere is concerned. He has to be protected from the Mosquitoes, etc. bite of which can be dangerous to his life. He further submits that because of the treatment and other medical issues, which he was facing, he could not attend the Court below and tried to show his bonafide for defaulting before the trial Court and prayed that the present applicant may be granted anticipatory bail.
4. The State counsel however opposing the bail application submits that the applicant having already granted a bail was suppose to appear before the trial Court on the date when the charge sheet was filed. It is not the case of the applicant that he was not aware of the filing of the charge sheet on 28.04.2000. He further submits that now the application for anticipatory bail is being filed after about 17½ years from the date of charge sheet was filed. The best course, the applicant should have taken was to surrender before the trial Court and move a regular bail application once again or for moving appropriate application seeking cancellation of the warrant of arrest and thus prayed for the rejection of the bail application.
5. Having considered the contentions put forth on either side and taking into consideration the peculiar facts and circumstances of the case, this Court is of the opinion that considering the fact that the applicant has absconded from his presence before the trial Court since 28.04.2000, which is a considerably long period and no effort has been shown so far as bonafides are concerned before the trial Court by the applicant at any point of time, it is not a case where the applicant can be granted benefit of anticipatory bail at this juncture.

6. However, considering his medical condition, it is ordered that subject to the applicant surrendering before the trial Court and moving an application for grant of regular bail, the bail application should, if possible, be considered on the same date.
7. Accordingly, the present MCRCA stands rejected.

Sd/-
(P. Sam Koshy)
Judge