

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 1353 OF 2016

Jitendra Kumar Chauhan, S/o Ishwari Lal, aged about 29 years, P.S. Govindgarh, District Jashpur (C.G.), R/o Post Office Kishanpura via Bachal, District Jaipur (Rajasthan) 303602.

... Applicant

Versus

State of Chhattisgarh, through District Magistrate Durg, Civil & Revenue District Durg (C.G.)

... Non-applicant

For Applicant	:	Mr. Amiyakant Tiwari, Advocate.
For Non-applicant/State	:	Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/05/2017

1. The present application has been filed under Section 438 of CrPC for grant of anticipatory bail to the Applicant who is apprehending his arrest in connection with Crime No. 120 of 2015, registered at Police Station- Bhilai Bhatti, District- Durg, for the offence punishable under Sections 447, 379 read with Section 34, Section 467 read with Section 34 and Sections 468, 471 of IPC.
2. Allegation as per the prosecution case against the Applicant is that while he was posted as Assistant Sub Inspector at the Bhilai Steel Plant under the Central Industrial Security Force, on 19.6.2015 he is alleged to have permitted one Truck (bearing Registration No. CG07-AU-2670) to move out of the factory premises taking out illegally 5 Nuts each weighing 4976kg valuing Rs. 13 Lakh each.
3. Learned Counsel for the Applicant submits that from the reading of the entire case diary and other materials available, there is no any material to show any direct involvement of the present Applicant of any connivance in the said act. He further submits that none of the witnesses who have

been examined during the course of investigation has given an outright statement of there being any role of the present Applicant in giving permission for moving of the said Truck out of the factory premises.

4. The statement in respect of Ankur Pratap Singh and other witnesses examined only cast an apprehension that there might have a role of the present Applicant also. A criminal prosecution cannot be initiated on the basis of apprehension without there being a strong case of prima facie involvement in the commission of offence.

5. Taking into consideration the fact that the prosecution has not been able to establish as to whether the Truck which is said to have moved out of the factory premises did in fact move out of the HSCL Gate or whether it had moved out from the Boria Gate, prima facie a strong case for grant of anticipatory bail is made out.

6. Accordingly, the present application under Section 438 of CrPC is allowed. It is directed that in the event of arrest of the Applicant in connection with Crime No. 120 of 2015, registered at Police Station- Bhilai Bhatti, District- Durg, for the offence punishable under Sections 447, 379 read with Section 34, Section 467 read with Section 34 and Sections 468, 471 of IPC, if he furnishes a personal bond for a sum of **Rs.25,000/- with one surety** of the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, then he shall be released on bail on the following further conditions :

(i) that the applicant shall make himself available for interrogation before the concerned 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.

/sharad/

Sd/-
(P. Sam Koshy)
Judge