

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC (A) No. 58 of 2017**

1. Kailash Sharma S/o Late Shri Dulichand Sharma, Aged About 60 Years
R/o Jindal Road, Raigarh, District Raigarh Chhattisgarh.
2. Jagdish Sharma, S/o Gokaran Prasad Sharma, Aged About 75 Years
R/o Chandrapur, District Janjgir Champa Chhattisgarh.
3. Shriram, S/o Shri Radheshyam Gond, Aged About 52 Years R/o Village
Gudeli, Tahsil Sarangarh, District Raigarh Chhattisgarh.

-----Applicants**Versus**

State of Chhattisgarh through Station House Officer, Sarangarh,
Distt. Raigarh (CG).

---- Respondent

For Applicants	:	Shri Amit Sharma, Advocate.
For Respondent	:	Shri UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****08/05/2017**

1. The applicants have filed this application for grant of anticipatory bail as they are apprehending their arrest in connection with Crime No.231 of 2002, registered at police station, Sarangarh, for the offence punishable under Sections 336 of IPC, Sections 9 and 5 of Explosives Substance Act and Section 4 of Mines and Minerals Act.
2. Prosecution story is that, initially when the FIR was lodged, the present applicants were charged only for the offence under Section 336/34 IPC and sub-section 9(A)(1-B) of the Explosives Act. The applicants moved application for grant of bail which was allowed and since 2002 onwards they are enjoying the liberty of bail and the trial is going on. However, on the day when the matter was fixed for

evidence, the prosecution filed an application under Section 323 CrPC and sought for adding Section 5 of the Explosives Act also against the applicants which was committed to the Sessions Court where the applicants moved application under Section 438 CrPC for anticipatory bail which has been rejected, leading to filing of this application.

3. Considering the total facts and circumstances of the case though it is the procedural law where subsequent to adding of new section, the applicants would have to again resort the remedy available under the provisions of CrPC, but considering the fact that all the applicants are senior citizens; they are enjoying liberty of bail right from 2002 i.e. about 15 years and that there is no allegation whatsoever of any misuse of bail granted to them, this court is of the view that it is a fit case to grant anticipatory bail to the applicants. Only because after 15 years another section, more serious in nature, has been added as charge against the applicants by itself would not serve any purpose of taking the applicants under custody and thereafter force them to take remedy under Section 439 CrPC.
4. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a bond in the sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:
 1. That, the accused/applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required;
 2. The accused/applicants 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 them from disclosing such facts to the Court or to any police officer;
 3. The accused/applicants shall not act, in any manner,

which will be prejudicial to fair and expeditious trial; and

4. The applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

5. Certified copy, as per rules.

Sd/-
(P. Sam Koshy)
Judge

inder