

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 657 of 2014**

1. Vimal Patni S/o Late Shri Dharamchand Patni Aged About 65 Years R/o 227/A.A.J.C. Bose Road, Infront Of Minto Park Gardiniya Building Flat No. 02B Kolkata 700 020 (West Bengal).
2. Akash Patni S/o Shri Vimal Patni Aged About 35 Years R/o 227/A.A.J.C. Bose Road, Infront Of Minto Park Gardiniya Building Flat No. 02B Kolkata 700 020 (West Bengal).
3. Vikas Patni S/o Shri Vimal Patni Aged About 38 Years R/o 227/A.A.J.C. Bose Road, Infront Of Minto Park Gardiniya Building Flat No. 02B Kolkata 700 020 (West Bengal).

---- Petitioners**Versus**

1. State Of Chhattisgarh through The District Magistrate, Raipur, Tahsil and District Raipur, Chhattisgarh.
2. Deepak Kedia S/o Naresh Kedia, aged about 29 years, Kedia Steels, one of the Director of Kedia Steels, GND Chambers, Agrasen Chowk, Raipur, Chhattisgarh R/o House No. 320 near water tank, Samta Colony, P.S. Saraswati Nagar, Tahsil and District Raipur, Chhattisgarh.

---- Respondents

For the Petitioners	:	Shri Sourabh Sharma, Advocate.
For Respondent No.1/State	:	Shri Ashish Shukla, Government Advocate.
For Respondent No.2	:	Shri Aman Kesharwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.08.2017**

1. Heard.
2. This petition has been brought under Section 482 of the Code of Criminal Procedure for quashing the order passed by the trial Court dated 22.7.2014. The criminal case against the petitioners was fixed for arguments before charge on 22.7.2014. An application was moved under Section 317 of the Cr.P.C. to grant exemption from appearance to the

petitioners which has been rejected and the order has been passed for issuance of non-bailable warrant against the petitioners. Hence, this petition.

3. Learned counsel for the petitioners submits that they moved an application for bail and the petitioners were granted anticipatory bail by this Court by order dated 28.3.2014 in M.Cr.C.A. No. 128 of 2014. In Cr.M.P. No.561 of 2014 filed by the petitioners, they made a submission before this Court that they may be exempted from appearing before the Court below on the date of hearing i.e. 22.7.2014. This Court by order dated 17.7.2014 in the said petition directed that the petitioners shall have liberty to move an application under Section 317 of the Cr.P.C. which shall be decided on its own merits by the Court below. Considering the background of this case, the trial Court should have considered and allow the application of the petitioners.

4. Learned State counsel has opposed the submissions made on behalf of the petitioners and similar opposition is also made by counsel for respondent No.2 submitting that the trial Court has rightly rejected the application under Section 317 of the Cr.P.C. which needs no interference.

5. Perused the record.

6. After due consideration, it is found that the directions issued in Cr.M.P. No.561 of 2014, vide order dated 17.7.2014 does not amount to grant any relief to the petitioners, as it was clearly mentioned that the application under Section 317 of the Cr.P.C. was to be decided on its own merits. The

impugned order mentions that in the order dated 28.3.2014 passed in M.Cr.C.A. No. 128 of 2014, a condition was imposed that the petitioners shall give their appearance before the Court on each and every date given by the trial Court and as the date fixed for hearing i.e. 22.7.2014 was for hearing the arguments on charge, there had been requirement for the petitioners to appear before the Court. Hence, the order passed by the Court below does not suffer from any infirmity. Apart from that, the petitioners have opportunity to move an application before the trial Court under Section 70(2) of the Cr.P.C. for cancellation of non-bailable warrant. Hence, this petition has no substance and it is dismissed accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge