

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 645 of 2017**

B.K. Sharma, S/o. Late Shri R.P. Sharma, age 50 years, R/o. Ganga Nagar, Bilaspur, Police Station – Civil Line, District – Bilaspur (C.G.)

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station – Civil Line, Bilaspur, District – Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Pragya Pandey, Advocate
For Respondent/State	: Mr. Sumit Jhanvar, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****14/11/2017**

1. Apprehending arrest in connection with Crime No.205/2017, registered at Police Station- Civil Line, Bilaspur, District – Bilaspur (C.G.), for offence punishable under Section 188 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case, hence, prayed that the applicant may be enlarged on bail.
3. Counsel for the State/respondent submits that this application is not maintainable as the offence under Section 188 of the Indian Penal

Code registered against the applicant is bailable, hence this application may be rejected.

4. I have heard the learned counsel for the parties and perused the case diary and the documents.
5. The case against the applicant is this that he being not qualified to practice medicine as a physician was running a clinic without any legal authorization. His clinic was sealed by the district authorities on 17.03.2017. Later on it was found that applicant had again started medical practice from the same clinic in disobedience to the order passed by the district authorities.
6. As held by this Court in case of Virendra Kumar Chaturvedi Vs. State of Chhattisgarh, passed in M.Cr.C.(A) No.956/2014 dated 13.11.2014 following the law laid down in case of *R.K. Krishna Kumar Vs. State of Assam & Ors., reported in 1998 (1) SCC 474* and in case of *Joginder @ Jindi Vs. State of Haryana, reported in 2008 Cr.L.J. 4682* that power under Section 438 of Cr.P.C. can be exercised only in the matter of non-bailable offence as regarding the bailable offence, this provision is not attracted.
7. On perusing the copy of the order passed by the Fourth Additional Sessions Judge, Bilaspur, passed in bail application No.860/2017, the application under Section 438 of Cr.P.C. of the applicant has been rejected without taking notice of this fact that offence registered against the applicant is a bailable offence. Hence this observation is made while disposing of this bail application that offence registered against the applicant is bailable offence for which Section 438 of Cr.P.C. shall not be attracted. In case any arrest is made of the applicant, it shall be the duty of the official arresting to

inform of his right to be released on bail and if the bail bonds are furnished to the satisfaction of the arresting authorities, he should be released on bail.

8. With the aforesaid observation, the bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram