

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 757 of 2017**

1. Rajendra Kumar Jain S/o Late Mohan Lal Ji Jain, Aged About 58 Years R/o Bhoipara, Durg, District Durg, Chhattisgarh.
2. Sajal Kumara Jain S/o Rajendra Kumar, Aged About 37 Years R/o Bhoipara, Durg, District Durg, Chhattisgarh.
3. Manoj Kumar Jain, S/o Rajendra Kumar Jain, Aged About 32 Years R/o Bhoipara, Durg, District Durg, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through: The District Magistrate, Durg, Chhattisgarh.

---- Respondent

For the Applicants : Shri Ashish Gupta, Advocate.
For the Respondent/State : Shri Wasim Miyan, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.12.2017**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicants who are apprehending arrest in connection with Crime No. 337 of 2017, registered at Police Station – Chhawani, Bhilai, District – Durg, Chhattisgarh for the offence punishable under Section 384/ 34 of the Indian Penal Code.
3. It is submitted by counsel for the applicants that the applicants have been falsely implicated in this case and the fact is that the son of complainant – Shyam Dewangan was an employee in the Jewellery Shop of

the applicants, who had stolen various articles of gold and silver from the shop of the applicants. On discovering the theft of gold and silver articles, the son of the complainant requested the applicants not to lodge any FIR and agreed to pay the price of the stolen property. In the later development, the father of the complainant came to the shop of the applicants and threatened that he will commit suicide in front of the shop, because of which a written complaint was given in P.S. Supela on 12.6.2017, on the basis of which, FIR has been registered against the son of complainant - Shyam Dewangan under Section 381 of the IPC and on 14.6.2017 another FIR was lodged against the complainant for the offences under Sections 309, 294 and 506 of the IPC. It was in the counter blast that the complainant has lodged FIR on 21.7.2017 after due deliberations which is totally false and baseless. Hence, it is prayed that the applicants be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that looking to the statement of the complainant and the witnesses, the applicants is not entitled for grant of anticipatory bail.

5. Heard counsel for both the parties and perused the case diary.

6. The complaint has been lodged by the complainant alleging that on 4.6.2017 the applicants came to his shop and said that the son of the complainant has committed theft in their shop and to save him, the applicants asked him to pay Rs.2,00,000/- immediately or else the complainant, his son and his family members would have to go jail and

thereafter, the applicants took his motorcycle with them by force. The FIR has been lodged on 21.7.2017 and it is clear that this FIR has been lodged after passing of sufficient time since the date of incident is stated to be 4.6.2017 and the complaint made by the applicants' side was already registered in the police station against the complainant and his son. Hence, looking to the development of things, I am of the considered view that the applicants deserves to be released on anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. They shall also abide by the following conditions:

- '(i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that the 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;
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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.'

Sd-
(Rajendra Chandra Singh Samant)
Judge