

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 834 of 2017**

Sona Ram S/o Lalu Ram Mahar Aged About 52 Years R/o Village Borai, P.S. And Tahsil Chhuikhadan District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through the Station House Officer, Police Station Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri C.K. Kesharwani, Advocate.
For the Respondent/State : Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.11.2017**

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 applicant who is apprehending arrest in connection with Crime No. 220 of 2017, registered at Police Station – Chhuikhadan, District – Rajnandgaon, Chhattisgarh for the offence punishable under Sections 457 and 354 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case by complainant – Amrika Bai who happens to be wife of younger brother of the applicant. The applicant alongwith his family and the family of brother – Santram are residing in the same house.

There had been a reason for enmity between the applicant and his brother because the applicant was appointed as Kotwar, which was challenged by his brother Santram before the Revenue Authorities and he lost ultimately. It is because of this, a false complaint has been lodged by the wife of Santram. The applicant is ready to abide by all the conditions that may be imposed for grant of anticipatory bail. Hence, it is prayed that the applicant 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 the complainant has made direct allegation against the applicant that he committed house trespass during night and outraged the modesty of the complainant. Hence, he is not entitled for grant of anticipatory bail.

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

6. The facts of the case are that the incident occurred on 1.9.2017 and a written complaint was lodged on 4.9.2017 alleging in it that at about 12:00 in the night the complainant who was sleeping in her room alongwith her children suddenly awoke on feeling the touch of somebody. On awakening, she saw the applicant standing in front of her bed. On asking why he has come there, the applicant said nothing and left the place. On the basis of this information, a complaint has been registered against the applicant.

7. Considering the submissions made and the contents of the case diary, keeping into consideration the fact that the applicant is of 52 years, he

was a Kotwar, the evidence available against the applicant is only of the complainant herself and also the written complaint was lodged after three days of incident, I am of the considered view that in this case the applicant deserves to be enlarged on bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him 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. He shall also abide by the following conditions:

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge