

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 1149 OF 2016

Mangal, S/o Babudas Manikpuri, aged about 56 years, R/o Kota, Police Station and Tahsil- Kota, District Bilaspur (C.G.)

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station- Kota, District Bilaspur (C.G.)

... Non-applicant

For Applicant	:	Mr. Dharmesh Shrivastava, Advocate.
For Non-applicant/State	:	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/05/2017

1. The present application has been filed under Section 438 of CrPC for grant of anticipatory bail to the Applicant who is apprehending his arrest in connection with Crime No. 152 of 2001, registered at Police Station- Kota, District Bilaspur, for the offence punishable under Sections 302, 394, 201, 34 of IPC.

2. The present Applicant is being prosecuted for the offence punishable under Sections 302, 394, 201, 34 of IPC in S.T. No. 64 of 2015 which is pending before the Court of 9th Additional Sessions Judge, Bilaspur. He was granted regular bail by the Sessions Judge on 24.5.2002. Thereafter, he continued to put his appearance before the Sessions Judge from May, 2002 onwards till 9.9.2016 on which date he first defaulted himself. On the said date, he had moved an application under Section 317 of CrPC claiming exemption from personal appearance on the ground of chest pain. The said application was allowed and the next date was granted for his appearance on 21.9.2016. On which date also the Applicant defaulted himself on the ground that he had to go for some religious ritual, which was allowed and the next date was granted for his appearance on 27.9.2016.

On 27.9.2016 also the Applicant defaulted by moving an application for exemption of his appearance on the ground that he was being hospitalized. This application was rejected by the Court below on the ground that the Applicant is not intending to appear before the Court and is seeking exemption of appearance on some pretext of the other. Subsequently, a non-bailable warrant was issued by the Court below.

3. Provisions of sub-Section 2 of Section 70 of the Code of Criminal Procedure provides for remedy in the event if warrant of arrest has been issued in a pending trial.

4. Considering the fact that the Applicant has a remedy under the provisions of the Code of Criminal Procedure, this Court is not inclined to grant anticipatory bail to the present Applicant.

5. Accordingly, the present application under Section 438 of CrPC is rejected, with a liberty to the Applicant to avail remedy under sub-Section 2 of Section 70 of the Code of Criminal Procedure.

Sd/-
(P. Sam Koshy)
Judge