

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1178 of 2016

- Ibrar Ali Khan S/o Sabir Ali Khan Aged About 28 Years R/o Ward No. 4, Raja Devri, Raja Devri - Baloda Bazar, Devri Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Khursipar, Bhilai, Tahsil & District Durg Chhattisgarh

---- **Respondent**

For Applicants : Mrs. Fouzia Mirza, Advocate

For Respondent/State : Mr. U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04-01-2017

1. Apprehending arrest in connection with Crime No. 326 of 2016 registered at Police Station Khursipar, District Durg (CG), for offence punishable under Section 407 and 511 of the IPC., the applicant has preferred this application under Section 438 of the Cr.P.C.
2. As per case of the prosecution, on 7-8-2016 a report was made by complainant Anil Kumar Mishra, who is Branch Manager of England World Logistic Pvt. Ltd., that 19.319 tons of aluminum rod was booked through T. Vijayarao Om Sai Roadways Rao Transport, which was to reach from Vendanta Limited Aluminum & Power Plant, Orissa to Bangalore Sarawati Conductor Pvt. Ltd. The said aluminum was loaded in the truck bearing registration No. OD 14-H-1652 which was to reach Bangalore, however, it did not reach and GPS location was shown that the said Truck was in front of Khursipar Thana, Bhilai. On enquiry it was found that the applicant in connivance with driver and other co-accused persons tried to

sell the said aluminum and thereby the aforesaid offence has been committed.

3. Learned counsel appearing for the applicant would submit that the name of the applicant never appeared in any statement, initially name of Sabir Ali was stated whereas in subsequent statement on 7--10-2016 name of the applicant was disclosed by the complainant, therefore, there is no nexus with the present applicant, therefore, the present applicant may be extended the benefit of anticipatory bail.
4. Learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statement of complainant Akhil Kumar Mishra which would show that initially he has stated the name of Sabir Ali, however, in subsequent statement he has stated by mistake the name of Sabir Ali, who is father of the present applicant.
7. Taking into consideration all the facts and circumstances of the case and further considering the contradictory statements of the complainant, I am of the considered opinion, *prima facie*, that it is not a fit case where benefit of Section 438 of the Cr.P.C., can be extended to the applicant.
8. Accordingly, the bail application filed under Section 438 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

