

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M. Cr. C. (A) No. 893 of 2017**

Vikas Kumar Agrawal S/o Motilal Agrawal, aged about 35 years, R/o
Ward No.15, Ramanujganj, Police Station Ramanujganj, District
Balrampur-Ramanujganj, Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh through Police Station Ramchandrapur, District
Balrampur-Ramanujganj, Chhattisgarh

---- Respondent

For Applicant	:	Shri Manoj Paranjpe, Advocate
For Respondent/State	:	Shri D. R. Minj, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/12/2017**

The present application under Section 438 of Cr.P.C. has been filed seeking for grant of anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 03/2006 registered at Police Station Ramchandrapur, District Balrampur-Ramanujganj (CG) for the offence punishable under Sections 467, 468, 471, 120-B, 409 & 420 of IPC.

2. The present applicant has been made an accused in Criminal Case No.81/2012 pending before the Board of the Judicial Magistrate First Class, Ramanujganj, district Balrampur-Ramanujganj. He has been made an accused on an application moved by the co-accused under Section 319 of CrPC which stood allowed on 29.02.2016.

3. Counsel for the applicant submits that in spite of being made accused on 29.02.2016, the Police Authorities till date have not been able to collect any material with which the applicant can be implicated in the instant case. He submits that except for the oral statement made by the co-

accused before the Court below, there is no other material available for the applicant to be prosecuted for the offence for which he has been charged. The applicant has already filed a revision petition questioning the order passed in 319 CrPC application which is pending consideration before the Revisional Court i.e. Additional Sessions Judge, Ramanujganj. He submits that the Police Authorities themselves on 24.08.2017 are said to have made a statement in writing before the Trial Court i.e. the Court of Judicial Magistrate First Class, Ramanujganj in Criminal Case No. 81/2012 that as on now, the Police Authorities have not been able to collect any documentary proof against the applicant and as and when they would collect the same, they would be filing a supplementary charge sheet under Section 173 (8) of CrPC. He prayed that in the given circumstances, the applicant is entitled for grant of anticipatory bail.

4. State counsel, however, opposing the bail application submits that the trial Court has already issued a warrant of arrest against the applicant and for all practical purposes, in stead of availing the remedy of 438 CrPC, the applicant should avail the remedy under sub section 2 of Section 70 of CrPC seeking for cancellation of warrant. He further submits that from the statement of the accused persons, prima facie, the involvement of the applicant in the case is clearly made out and for this reason also the applicant does not deserve to be granted anticipatory bail at this juncture.

5. Having considered the submissions put forth on either side and on perusal of the record particularly the fact that the Police Authorities till date have not been able to collect any documentary proof for implicating the applicant as is evident from their submission that they have made before the Judicial Magistrate First Class, Ramanujganj on 24.08.2017 and the fact that the FIR in the instant case was lodged in 2006 and the applicant has now been made an accused in the case only on an application under

Section 319 CrPC i.e. after more than a decade, coupled with the fact that counsel for the applicant undertakes that the applicant shall fully cooperate with the Police Authorities in the investigation, this Court is of the opinion that it is a fit case where the present applicant can be granted anticipatory bail.

6. In the result, the application u/s 438 Cr.P.C. is allowed. It is directed that in the event of arrest of the present applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Officer arresting him or the Court concerned, as the case may be, with the following terms and conditions:

- (i) that the applicant shall make himself available for interrogation before the concerned 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/her 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.

7. It is further directed that as and when the Police Authorities are able to collect materials against the present applicant and a supplementary charge sheet is filed, the applicant shall surrender himself before the concerned trial Court and obtain regular bail.

Sd/-
(P. Sam Koshy)
Judge