

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 278 of 2018**

1. Mohan Kesharwani S/o Shri Rambabu Kesharwani Aged About 29 Years ,
District : Bilaspur, Chhattisgarh
2. Dewanshu Manikpuri Babi S/o Manoj Das Manikpuri Aged About 24 Years
R/o Village Khonsara, Police Station Kota, Tahsil And District Bilaspur,
Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Pradip Kushwaha S/o Kanhaiya Lal Kushwaha Aged About 29 Years R/o
Village Khonsara, Police Station Kota, Tahsil And District Bilaspur,
Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kota,
Tahsil And District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Sushil Dubey, Advocate.
For the Respondent/State	:	Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.07.2018**

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. 8 of 2018, registered at Outpost Belgahna, Police Station – Kota, District – Bilaspur, Chhattisgarh for the offence punishable under Sections 294, 506, 323, 427 and 341/ 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. According to the FIR, the date of incident is 8.1.2018 whereas, the FIR has been lodged on 10.1.2018 and the delay has not been explained. No case is made out against the applicants on the basis of the material placed before the Court by the prosecution. 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 the information was given to the police on 9.1.2018, which was recorded in Station House Diary. Later on, the FIR was lodged on 10.1.2018 and the First Information Report reflects the names of applicants No.2 and 3 – Dewanshi Manikpuri and Pradip Kushwaha. Hence, for these reasons, the applicants are not entitled for grant of anticipatory bail.

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

6. According to the prosecution case, on the date of incident, complainant – Haji Mohammad was stopped by the applicants to demand money for buying liquor. When the complainant refused to give, he was assaulted and injured and his vehicle was also damaged. Hence, this case.

7. Considered the material present in the case-diary. As it appears that the name of applicant No.1 is not clearly mentioned in the information given by the complainant, I am of the opinion that he is entitled for grant of

anticipatory bail whereas names of applicants No.2 and 3 – Dewanshi Manikpuri Babi and Pradip Kushwaha are clearly mentioned in the FIR because of which, applicants No.2 and 3 are not entitled for grant of anticipatory bail.

8. Accordingly, the anticipatory bail application of applicant No.1 – Mohan Kesharwani is allowed and it is directed that in the event of arrest of applicant No.1 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. The applicant 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 them 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.'

9. Accordingly, the anticipatory bail application of applicants No.2 & 3 – Dewanshu Manikpuri and Pradip Kushwaha is rejected. The concerned

Court is directed to consider and decide the application filed by applicants No.2 and 3 preferably on the same day they surrender before the said Court.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi