

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 297 of 2018

- J. P. Mishra S/o Shri G. P. Mishra, Aged About 63 Years, R/o Awanti Vihar Colony, Tehsil And District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

- Tarachand Sharma (Dead) S/o Shri Radhelal Sharma, R/o Aarang, P. S. Aarang, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Achyut Tiwari, Advocate.

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-03-2018

1. Heard.
2. It is submitted that the applicant is apprehending arrest in connection with Crime No.35/2010 on account of issuance of warrant of arrest against him by the concerned trial Court. It is submitted that the applicant was already granted bail on the basis of order passed by the Sessions Court Raipur. Because of a compromise between the applicant and the complainant in that case, the applicant was not appearing before the concerned Court and as per his information the complainant was also not appearing in the said Court, even then by order dated 13-02-2018 the concerned trial Court has issued non-bailable warrant against this applicant despite information that the complainant has expired and the cause of action for the complaint has also expired. Hence, it is prayed that the applicant may be granted anticipatory bail for the purposes of giving appearance and pursuing his case before the concerned trial Court.
3. Respondent/complainant is now deceased and presently represented by the State counsel. Learned State counsel has opposed the application and the submission made in this respect.

4. Heard learned counsel for the parties and perused the case diary.
5. On complaint filed by the respondent (deceased), cognizance was taken against this applicant for the offences under Section 420, 406, 467, 468 of the IPC, in which, the applicant has given his appearance and was on bail by virtue of the order passed by the Sessions Court. On perusing of the certified copy of the orders sheets of the concerned Court, it appears that compromise was entered between the applicant and the complainant and thereafter the complaint and the applicant both were not appearing before the concerned Court, even then the case was continuing recording absence of both the parties on given dates and finally on 13-02-2018 an order was passed to issue non-bailable warrant against this applicant.
6. Considering this fact that the order of grant of bail under Section 439 of the Cr.P.C. passed by the Sessions Court is still in existence which has not been cancelled, hence there is no requirement to pass any order granting bail. The applicant is required to give his appearance before the concerned Court and pray for furnishing bail bonds according to the order passed by the Sessions Court in case No.1520/2008 passed on 02-09-2008.
7. In consequence of this order, order of issuance of non-bailable warrant by the concerned trial Court is hereby quashed.
8. The petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge