

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 317 of 2018

- Shivkumar Yadav S/o Sharda Prasad Yadav Aged About 39 Years R/o Village Badagaon, Post Nibhapur, P. S. Mungra Badshahpur, District Jhonpur U. P., District : Jaunpur, Uttar Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Pujipathra, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Respondent

For Applicant : Mrs. Indira Tripathi, Advocate.

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

06/07/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.159/2014 registered at Police Station- Pujipathra, District – Raigarh(C.G.), for the offence punishable under Sections 406 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The applicant, who is proprietor of Pawan Road-lines, is not the owner of truck bearing registration No.UP-71B/9286, in which the consignment was sent to Balaji Traders, Urpur, Sonbhadra (U.P.) The defalcation, if any, that has

been made by the driver or the owner of the said truck and a false FIR has been lodged against this applicant. It is further submitted by the counsel for applicant, that the said truck has met with an accident on its way because of which the part of truck load was collected by the owner of the said truck and sent to its destination. As the entire consignment loaded in the said truck did not reach to its destination, FIR has been lodged. Hence, it is prayed that he may be granted anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that this applicant had been involved in the said defalcation and misappropriation of the load for transporting in the said truck. Hence, he is not entitled for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. As per contents of FIR, the truck bearing registration number UP71-B-9286 was loaded with 41,380 mt rods at Raigarh and the rods were required to be transported to Balaji Traders, Urpur, Sonbhadra (UP) but the full consignment could not reach to the consignee, therefore, a FIR has been lodged.
6. Considering on all the material present in the case diary, particularly the role of this applicant that he has acted only as an agent in getting the truck load for the said truck and that the owner of the said truck is not the applicant but some other person, I am of this view that this is a fit case where the applicant should be enlarged on anticipatory bail.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer

arresting him on his executing a personal bond in the 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 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha