

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 363 of 2018**

Radhe Shyam Saraf, S/o. Late Shri Lakhan Lal Saraf, Aged About 61 Years, R/o.- Gitanjali Nagar, Kashyap Colony, Gulley No. 05, Tehsil And District- Bilaspur, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through- S.H.O. P.S.- City Kotwali, District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Achut Tiwari, Advocate
For Respondent/State	: Mr. Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****29/06/2018**

1. Apprehending arrest in connection with Crime No.48/2018, registered at Police Station – City Kotwali, District – Bilaspur (C.G.) for offence punishable under Section 420, 34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The father of this applicant had executed a Will in his favour on 20.01.2009. After the death of the father of this applicant, the applicant had prayed for mutation of the property, the subject matter of Will in his name and has got mutation in his favour. In the meanwhile, the complainant,

who happens to be the mother of the applicant had filed a complaint making false allegation against this applicant that this applicant has forged the Will and report of handwriting expert has been obtained in which the correct specimen signatures of the deceased have not been put to examination. Therefore, it is prayed that the applicant may kindly be benefited with Section 438 of Cr.P.C.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that the allegations and the report of handwriting expert obtained by the complainant are clearly against this applicant and therefore, he is not entitled for grant of bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. As the dispute is regarding Will, which is a purported to be executed by the father of the applicant as per the version of the applicant and it is forged as per the version of the complainant.
6. There are rival handwriting expert reports, one submitted by the complainant and one submitted by the applicant. The report of handwriting expert by the applicant appears to be in his favour. The investigation has not been done on this point by the police to find out the actual author of the disputed Will.
7. Hence, looking to the nature of the case and the dispute involved in it between the family members of the same family, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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 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 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge