

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.533 of 2017

- Madhav Tiwari S/o Siyaram Tiwari, Aged About 54 Years R/o Village Tendui, Post Koundhiyara, (At Present Police Station Koundhiyara) Earlier Police Station Ghurpur, District Allahabad Uttar Pradesh Presently R/o At Near Budhwari Bazar Police Chowki C. S. E. B. Police Station Kotwali, Korba Tahsil And Distict Korba Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through District Magistrate Korba District Korba Chhattisgarh
2. Heeraram Rathore, S/o Hetram Rathore, R/o C. S. E. B. Colony Korba Tahsil And District Korba Chhattisgarh

---- Respondent

Shri Sanjay Patel, counsel for applicant.

Shri S. I. Ali, PL for State.

None for respondent No.2, when the case is called for hearing in the second round.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/01/2018

Heard.

2. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest on account of issuance of warrant of arrest in a Criminal Case No.667/2017, registered by the Judicial Magistrate First Class, Link Court, Korba on the complaint filed by the respondent No.2 alleging commission of offence under Sections 415/420 of IPC.

3. Learned counsel for the applicant submits that the applicant is a police officer and he had lodged FIR against the family members of the complainant-respondent No.2, therefore, the complainant filed a false motivated complaint before the Magistrate making allegations that the in the year 1980, when the applicant entered into government service, he was less than 18 years of age. He submits that this is a case of false implication in order to wreck vengeance. He lastly submits that the applicant never submitted any forged document showing

incorrect date of birth.

4. On the other hand, learned State counsel submits that this is a case arising out of complaint.

5. The complainant is neither present in the Court nor represented by counsel.

6. Taking into consideration the submission of learned counsel for the applicant, particularly taking into consideration that the applicant is a government servant and the allegation is that at the time of entering into the government service, 37 years before, he had not attained the minimum age of public employment and also taking into consideration the submission that earlier a complaint of similar nature was rejected by the Lok Ayog also, I am inclined to protect the applicant.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) The applicant shall appear before the trial Court on the date fixed in the warrant;

(II) 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 from disclosing such facts to the Court or to any police officer, *and*

(III) The applicant shall cooperate with the investigation as and when he is called.

SD/-
(Manindra Mohan Shrivastava)
Judge