

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1400 of 2018**

Vijay Kumar Jaiswal, S/o. Late Dinanath Jaiswal, aged about 38 years,
R/o. Village – Jagargunda, P.S. - Jagargunda, District – Sukma (C.G.)

----Applicant**Versus**

State Of Chhattisgarh, Through : Police Station – Jagargunda, Sukma,
Chhattisgarh.

---- Respondent

For Applicant : Mr. S.C. Verma, Advocate
For Respondent/State : Mr. Ashish Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****02/11/2018**

1. Apprehending arrest in connection with Crime No.01/2011, registered at Police Station – Jagargunda, District – Sukma (C.G.) for offence punishable under Section 147, 148, 149, 302 of the Indian Penal Code and Section 25, 27 of Arms Act, 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 applicant is government teacher. He was not even present on the spot, where the incident took place on 19.11.2010, but surprisingly his name is mentioned in the FIR as one of the Naxals in the group, who committed the offence of murder. The applicant has continuously

appeared on his duty in his place of posting in Jagargunda and copy of the attendance register is also produced, which shows the presence of the applicant on the date of incident. This applicant was never arrested by the police during the pendency of the investigation, whereas, he was available and working at his place of posting, before the charge-sheet was filed on 05.09.2017 showing him absconding. This applicant has been transferred twice to different place of his posting. Presently, the applicant is still in government job and he has been assigned election duty regarding which document are submitted along with this bail application. Apart from that in the trial that has proceeded against co-accused persons, none of the witnesses have named this applicant as one of the person, who was present at the time of the incident. Therefore, it is prayed the applicant may be enlarged on anticipatory bail.

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 name of the applicant finds mention in the morgue intimation, FIR and statement of the witnesses as being one of the person, who was present at the time when the deceased Kodi Nagesh was shot dead by one of the Naxalites. Hence, no case is made out for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. The incident took place on 19.11.2010 when about 25 persons alleged to be member of banned Naxalite group arrived in the place at Chintalnar and shot dead the deceased Kodi Nagesh, regarding

which morgue intimation and FIR has been lodged by Kodi Mana, the father of the deceased naming that this applicant was present among the Naxlas.

6. Considered the submissions made and the contents of the case diary. As there is no specific statement as to who was the person, who shot dead the deceased and that this applicant is a government servant, who is continuously serving in his respective place from before the date of incident till date and no attempt was made to arrest him by the police personnel. Hence, after due consideration, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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.

(Rajendra Chandra Singh Samant)
Judge

Balram