

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 1129 of 2017

Montu Xalxo S/o Shri Anandpal Xalxo, aged about 30 years, R/o Sada Colony, House No.294, Balco Nagar, Police Station Balco, District Korba (C.G.).

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Police Station Dharamjaygarh, District Raigarh (C.G.).

---- Respondent

For Applicant	:	Shri Shailendra Dubey, Advocate.
For Respondent	:	Shri Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/04/2018

1. Present is an application filed under Section 438 of Cr.P.C. seeking for anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 225/2015 registered at Police Station Dharamjaygarh, District Raigarh (C.G.) for the offence punishable under Sections 458, 294, 506, 323/34 of IPC.
2. The allegation against the present applicant as per prosecution case is that, the present applicant along with a large number of people had entered into the premises of Vedanta Company situated at Dharamjaygarh, District Raigarh (C.G.).
3. The counsel for the applicant submits that the name of the present applicant does not find place in the F.I.R. and his name has been subsequently added as accused only on the basis of the memorandum statement of co-accused persons which otherwise is not admissible under law. He further submits that the incident is of the year 2013. Till now, the police authorities have not arrested the present applicant. He further submits that except for the memorandum statement, there is no material available in the case diary with which the present applicant would be implicated in the said offence and thus prayed for granting benefit of Anticipatory Bail to the applicant.

4. The State counsel however opposing the bail application submits that, the role of the applicant stands established from the statement of the other accused persons which were recorded during the course of investigation so also the present applicant has been absconding all along and therefore he may not be entitled for grant of anticipatory bail and thus prayed for rejection of bail application.
5. Given the facts and circumstances of the case particularly considering the fact that the name of present applicant is not there in the F.I.R. and the only material available in the case diary is the memorandum statement of the co-accused persons, this Court is of the opinion that present is a fit case where the applicant is entitled for benefit of Anticipatory Bail.
6. Accordingly, the application under Section 438 of Cr.P.C. is allowed. It is directed that in the event of arrest of the present Applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, with the following terms and conditions:
 - (i) that the applicant shall make himself available for interrogation before the concerned 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/-
(P. Sam Koshy)
Judge