

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1482 of 2018

1. Shiv Paliwal S/o Teekamchand Paliwal Aged About 44 Years R/o Kadambari Nagar, Near Shiv Mandir, Durg Tahsil And District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Malik @ Mohammad Ali Hirani S/o Murad Ali Hirani Aged About 55 Years R/o Pachari Para, Farista Complex, Durg, Tahsil And District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The District Magistrate/ Collector, Durg, Police Station- Kotwali, Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Akhtar Hussain, Advocate.
For Respondent/State	:	Mrs. Madhunisha Singh, Panel Lawyer.

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

26/112018

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.639/2018 registered at Police Station Kotwali, District – Durg (C.G.), for the offence punishable under Sections 386 & 420/34 of the Indian Penal Code.

2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. No case is made out against these applicants according to the material present in the case diary. The main allegation of forcing the complainant to enter into an agreement is against co-accused Pappi Pathan & Gautam Jain and in which this applicant has not participated in any manner. Applicant No.2 was not in India on the date of execution of said agreement. The complainant was forced by co-accused persons to sign the written agreement and not by these applicants. Hence, under these circumstances, it is prayed that they may be enlarged on anticipatory bail.
3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that FIR discloses name of both these applicants as parties to the act of extortion and cheating. Hence, they are not entitled for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. The case against the applicants is this, that complainant J.L. Yadav, owner of one shop in Farishta Complex, and other shop keepers of the said complex were informed by Mohammad Farishta that he is going to sell the said complex to Ashish Paliwal & others and therefore they are required to vacate the shops. An assurance was also given to the applicant and other shopkeepers that either they will be given compensation or a shop in the Mall to be constructed after demolishing the said complex. However, the cheque given to the complainant towards compensation was dishonored by the bank. Subsequent to that on account of threats given by Ashish Paliwal, the complainant was compelled to close his shop. The complainant was also threatened by Gautam Jain & Pappi Pathan for keeping away from

lodging the police report against Ashish Paliwal and others. He was also pressurized to handover original papers of shop and sign an affidavit of compromise which the complainant refused. Thereafter, on 12.8.2018 he lodged the FIR.

6. Considered on the material present in the case diary and looking to the evidence relating to role of these applicants in this incident, I feel inclined to grant anticipatory bail to these applicants.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha