

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 159 of 2019**

Radheshyam Banka, S/o. Shri Nathmal Banka, Aged About 74 Years, R/o. House No. 15, Sector-4, Devendra Nagar, Tehsil and District Raipur Chhattisgarh.

----Applicant**Versus**

Sanjay Kumar Paul, S/o. Bhutnath Paul, Aged About 40 Years, R/o. Lodhipara, Mowa, P. S. Mowa Raipur, Tehsil and District Raipur Chhattisgarh(Now Dead)

---- Respondent

For Applicant	: Mr. Abhisek Sinha, Advocate
For Respondent/State	: Mr. H.S. Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****27/02/2019**

1. Apprehending arrest in connection with Complaint Case No.422/2011, pending before the Judicial Magistrate First Class, Raipur, District – Raipur (C.G.) for offence punishable under Section 294, 323, 423, 367, 324, 452, 120 (B), 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. No case is made out against him on the basis of the material present on record. Complainant Sanjay Kumar Paul had been employee as Accountant in the concern of this applicant styled as M/s. M.R.

Saree Center, Pandri, Raipur. The complainant manipulated the account and has embezzled Rs.20.00 lakhs because of which one FIR was lodged against the complainant on 22.09.2008 and on the basis of which, the complainant was prosecuted. Complainant as a counter blast filed this private complaint against this applicant and others making various allegations, which are baseless. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Respondent/complainant is now dead and on his behalf State counsel opposes the application and submits that according to the allegation/evidence present in the complaint case, no case is made out for grant of anticipatory bail to the applicant.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. Complainant – Sanjay Kumar Paul has stated in his complaint that this applicant and other co-accused persons pressurizing upon him to sell the house in his possession. In this connection, co-accused namely Chandrashekhar Banka, Lalit @ Ajit Singh and others committed house trespass and then after abusing and threatening the complainant and his wife abducted the complainant, who was taken to a place and kept in confinement, where he was beaten by the co-accused persons and ultimately, when the complainant could not resist any more, he signed forged documents on 14.08.2008. thereafter, he was released. On complaint made by the complainant to the police, no action was taken, thereafter, private complaint was filed. The trial Court has taken cognizance in the complaint filed. Hence this case.

6. Considered the submissions made and the contents of the case diary. Considering on the entire material present on record and also perused the documents filed along with this bail application, which includes the FIR lodged against the complainant, which is of earlier date to the complaint filed against this applicant and other co-accused persons. On the basis of the document produced, it appears that the complainant had himself executed a sale deed of his house in favour of the applicant on 31.07.2009 although it is stated in the complaint that he has grievance from the date he was forced to sign the documents. 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 Court. 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

Balram