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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 209 of 2019**

Devilal Shah S/o Shri Beera Shah Aged About 55 Years Occupation Private Service, R/o Village Beergaon, Gandhi Nagar, Near New Municipal Corporation Raipur Urla, Police Station Urla, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Urla, Civil And Revenue District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Ms. Sunita Sahu, Advocate.
For the Respondent/State : Ms. Smita Jha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.02.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 231 of 2015, registered at Police Station – Urla, District Raipur, Chhattisgarh for the offence punishable under Sections 457 and 380 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. There is no evidence present in this case to implicate this applicant. The only reliable evidence in this case is the

memorandum statement given by Bindeshwar Shah who happened to be the son of this applicant, who has died a custodial death. Just to prevent this applicant from making any complaint, this false offence has been registered against him that he had helped the main accused in disposing of the stolen property. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect.

5. Heard counsel for both the parties and perused the case diary.

6. While investigating a theft, co-accused – Bindeshwar Shah (the deceased) was interrogated by the police who made a confessional statement about committing the offence of theft and that he has with the help of his father (this applicant) mortgaged the stolen jewelery in HDB Finance Company. Later on, co-accused – Bindeshwar Shah committed suicide while he was in custody. The only evidence against this applicant is the memorandum statement given by the deceased/ co-accused. The investigation is pending since long time and according to that the co-accused was the person who mortgaged the stolen jewelery with the HDB Finance Company.

7. Considering the entire material present in the case-diary, I am of the opinion that the present is a fit case where the applicant is entitled to be released on anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and 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 them 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/-

(Rajendra Chandra Singh Samant)
Judge