

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 480 of 2019**

Dindayal Vishwakarma, S/o. Late Parmanand Vishwakarma, Aged About 45 Years, Caste -Lohar, R/o. Near Gayatri Mandir, Bhadraapara, Balkonagar, Police Station- Balkonagar, Tahsil and District Korba, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Police Station, Janjgir District -Janjgir -Champa, Chhattisgarh.

---- Respondent

For Applicant	: Mr. S.S. Rajput, Advocate
For Respondent	: Mr. Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****12/04/2019**

1. Apprehending arrest in connection with Crime No.8/2019, registered at Police Station – Janjgir, District – Janjgir – Champa (C.G.) for offence punishable under Section 407, 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 the applicant on the basis of the material present in the case diary. The complainant is representative of the company registered as Max India Power Limited, Khadakpur. This applicant had dispatched construction material to Khadakpur through Jai Jagannath Road Carrier, which has not reached its destination. The dispute between the applicant and the complainant is only with regard to outstanding payment, therefore, no case is made out against the applicant for commission of offence under Section 407

of the Indian Penal Code. Therefore, it is prayed that the applicant be granted 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 it is clear case of misappropriation by carrier, therefore, the applicant should not be released on anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged, on the basis of the order placed by the complainant Nabo Kumar Das from Max India Power Limited, some machinery work worth Rs.6.00 lakhs was consigned for transport to Jai Jagannath Road Carrier of which Ashok Rajput was proprietor and this applicant was partner. This transported articles did not reach their destination and on making enquiry by the complainant, the applicant admitted to have retained the machinery in his possession.
6. Considered the submissions made and the contents of the case diary. After considering on the entire material present in the case diary and the grounds raised by the applicant regarding dispute of outstanding payment, 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram