

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 715 of 2019**

Krishna Chouhan S/o Late Shri Jeevan Lal Chouhan Aged About 25 Years
R/o Village - Pamgarh, Police Station - Kharsiya, District - Raigarh
Chhattisgarh., District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station -
Baradwar, District Janjgir - Champa Chhattisgarh., District : Janjgir-Champa,
Chhattisgarh.

---- Respondent

For the Applicant : Shri Hari Agrawal, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****25.07.2019**

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. 193 of 2018 (wrongly written as 139/ 2018 in the cause title of the order dated 8.4.2019), registered at Police Station – Baradwar, District Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 452, 323, 294, 506B/ 34 of the Indian Penal Code (wrongly written as 456, 323, 294, 506B and 34 in the cause title of the order dated 8.4.2019).

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No offence has been committed by this applicant as it is alleged in the FIR lodged. Even if it is to be believed that the applicant was present, the statement of the witnesses itself show that the applicant was standing outside at the time of incident, therefore, the case of house trespass is not against him and the rest of the offences which are registered against the applicant are bailable in nature. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the participation of this applicant is also mentioned by the witnesses of this case. Hence, he is not entitled for grant of anticipatory bail.

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

6. According to the FIR lodged, on the date of incident, the co-accused persons, namely, Ghanshyam Chouhan, Vijay Chouhan and Prakash Chouhan committed the house trespass in the house of Santram Yadav and thereafter, abused and threatened him and then they also assaulted Komal Yadav, son of Santram Yadav. In the statement of the witness it has been revealed that this applicant was standing outside at the time of incident.

7. On perusal of the case-diary, the role as it is alleged to have been played by this applicant does not reveal that he was the person who has

committed the house trespass and only the offence of house trespass is non-bailable and rest of the offences are bailable in nature. Hence, for these reasons, I feel inclined to grant anticipatory bail to the applicant.

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. He 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 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