

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 704 of 2019**

Ramesh Kumar Sahu S/o Mevalal Sahu Aged About 50 Years Ganjpara, In Front Of Aditya Hospital, Mahasamund, Police Station, Tahsil And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Mahasamund, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh.

---- Respondent

For the Applicant : Shri Manoj Paranjpe, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.05.2019**

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. 206 of 2019, registered at Police Station – Mahasamund, District – Mahasamund, Chhattisgarh for the offence punishable under Sections 186, 341 and 353 of the Indian Penal Code.

3. It is submitted by 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 placed before the Court by the prosecution. The

police party had come to the house of this applicant in search of one accused, namely, Narad Sahu. Without following procedure and in illegal manner, the police party forced entry into the house of the applicant and was making search in which the female members were also manhandled and misbehaved. The applicant had simply objected to the method of search, questioned about the availability of search warrant, as making such search after sunset is not permissible under law. Further, the applicant has made a complaint to the various authorities against the complainant party, regarding which enquiry is going on, therefore, the applicant has been falsely implicated in this case. 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 this applicant had kept in hiding an absconding accused. When the members of the police party came to arrest the accused person, the applicant has obstructed, abused and threatened the members of the police party. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. According to the contents of the FIR, on the date of incident, Sunil Sharma, probationer IPS, alongwith the team of other police officials came to the house of the applicant for making a search of his house for the purpose of arresting accused person – Narad Sahu. The applicant then started quarreling with the complainant and others and obstructed their search. He also threatened and misbehaved. Hence, this case.

7. Considered the entire material present in the case-diary. In the FIR, there is nothing mentioned about availability of search warrant to make such search after sunset. After overall consideration, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of 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. 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