

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 785 of 2019**

1. Naveen Mishra, S/o. Ramakant Mishra, Aged About 45 Years, R/o. Abhilasha Parisar, H.No. 356, Police Station -Sirgitti, Tehsil and District Bilaspur Chhattisgarh.
2. Shailendra Singh, S/o. Awadhnarayan Singh, Aged About 25 Years, R/o. Sunrise Towers, Flat No. 304, Kumharpara Road, Police Station Civil Lines, District Bilaspur Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : Police Station Civil Line Bilaspur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Manish Sharma with Mr. Pragalbha Sharma, Advocates
For Respondent/State	: Mr. Shubhash Yadav, Dy.G.A.
For Objector	: Mr. Ajay Kumrani, Advocate on behalf of Mr. Vikash Shrivastava, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****26/07/2019**

1. At the very outset, the learned counsel for the applicants seeks permission of this Court to withdraw this instant bail application filed under Section 438 of Cr.P.C. in respect of the applicant No.1 – Naveen Mishra and also seeks direction to the concerned trial Court that application for regular bail be decided on the same day, if the, applicant surrenders and applies for grant of regular bail before the concerned trial Court.
2. Accordingly, the bail application filed under Section 438 of Cr.P.C. in respect of the applicant No.1 – Naveen Mishra is dismissed as withdrawn. The concerned trial Court is directed to consider on the regular bail application of the applicant, if the, applicant surrenders

and applies for regular before the concerned Court below and decide the same as far as practicable preferably on the same day.

3. Apprehending arrest in connection with Crime No.31/2019, registered at Police Station – Civil Lines, District – Bilaspur (C.G.) for offence punishable under Section 147, 148, 149, 323, 307 of the Indian Penal Code, the applicant No.2 has preferred this application for grant of anticipatory bail.
4. It is submitted by the learned counsel for the applicant No.2 that the applicant No.2 has been falsely implicated in this case. No case is made out against the applicant regarding commission of offence as alleged. The FIR lodged on 14.01.2019 does not disclose the name of this applicant. In subsequent development, the victim of this case made a statement under Section 161 of Cr.P.C. on 15.01.2019 and in that also he did not mention the name of this applicant, which shows that this applicant had not been identified as culprits. Therefore, it is prayed that the applicant No.2 may be granted anticipatory bail.
5. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that according to the complaint made there were two other persons have been identified, therefore, the arrest and detention of the applicant is necessary for the purpose of investigation. Therefore, the application be rejected.
6. Counsel for the objector after adopting the argument advanced by the State counsel submits that this applicant was also present on the spot and the victim could not recollect his name at that time, therefore, he has not mentioned his name, which can not be made

ground for grant of bail to the applicant No.2. Therefore, the application be rejected.

7. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
8. According to the prosecution case on the date of incident some unknown persons assaulted the victim Raja @ Hemant Mishra with rods and sword causing various injuries to him. The victim went unconscious and after gaining consciousness made statement under Section 161 of Cr.P.C., in which he named the assailants. Hence, this case.
9. Considered the submissions made and the contents of the case diary. Considering that the name of the applicant No.2 has not appeared in the FIR as well as in the statement of the victim, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
10. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. in respect of the applicant No.2 is allowed.
11. It is directed that in the event of arrest of the applicant No.2 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 No.2 shall also abide by the following conditions :
 - (i) that the applicant No.2 shall make himself available for interrogation before the investigating officer as and when required;

- (ii) that the applicant No.2 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 No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant No.2 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