

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 604 of 2018**

Subhash Kaushik, S/o Pawan Kaushik, Aged About 26 Years, R/o
Village Jinda, P. S. Pipariya, Presently R/o Near Rajmahal, Kawardha,
P. S. And Tahsil Kawardha, Distt. Kabeerdham Chhattisgarh

---- **Applicant**

Versus

State Of Chhattisgarh, Through The Station House Officer, Police
Station Kawardha, Distt. Kabeerdham Chhattisgarh ---- **Respondent**

For Applicant	:	Dr. N.K. Shukla, Sr. Advocate with Mr. B.D. Guru, Advocate.
For Respondent/State	:	Shri Santosh Bharat, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board**

05/04/2019

Heard.

1. The applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No.383 of 2017 registered at Police Station Kawardha, Distt. Kabeerdham, for the offence punishable under Sections 20-B of the Narcotics Drugs and Psychotropic Substances Act, 1985.

2. The allegation, on which, the applicant is apprehending his arrest is that a vehicle, motorcycle was intercepted and in the motorcycle, ganja measuring 6 kg. and 500 grams was found. According to the prosecution, the applicant was also sitting in the vehicle but saying the police party, he ran away.

3. Learned Senior Counsel for the applicant would argue that he is being falsely implicated in the case, merely because, the vehicle belong to and registered in the name of applicant. Learned counsel for the applicant would submit that earlier bail application was filed stating that the vehicle of the applicant was taken by someone else and not returned, due to which, report was lodged in the police station.

4. The bail application, at that stage, was dismissed as withdrawn and thereafter, in response to applicant's application under RTI made on 23rd January, 2018 to the concerned Police Station Kawardha, vide memo dated 03.05.2018 (Annexure A-6), the applicant was informed regarding registration of his complaint at serial No.862 of 2017 on 06.08.2017, on his report dated 06.08.2017 that his motorcycle has been taken by one Sunil Patre and thereafter, it has not been returned. He would argue that from this document, it is clear that motorcycle of the applicant was already taken by someone else, in respect of which, report was also lodged. Therefore, the applicant may be protected against arrest.

5. On the other hand, learned counsel for the State opposes the prayer and submits that the applicant's case that since 05.08.2017, his motorcycle was taken away and not returned, does not render improbable the presence of the applicant in the vehicle on 27.11.2017. He submits that the witnesses have stated that when the vehicle was sought to be intercepted by the police, the applicant ran away from the spot.

6. I have heard the submission of learned counsel for the parties and also perused the case diary.

7. Earlier the bail application was filed, which was dismissed as withdrawn at that time and the applicant was not having information under RTI, which is later on, received by him on 03.05.2018. The contents of that said letter of Public Information Officer of Police Station, Kawardha, show that the applicant had lodged a report of his motorcycle having been taken by one Sunil Patre and not returned till 06.08.2017, on which, the matter was being inquired by the police and communication also shows that there is no material available in the police station that later on, the vehicle was seized or recovered from Sunil Patre or any other person and given on Supurdnama to the applicant before 27.11.2017.

8. Considering the aforesaid material which has been subsequently collected by the applicant after rejection of his earlier bail application, I am of the view that it is a fit case where the applicant may be granted protection against arrest.

9. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum

of Rs.25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:

- i. That, the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
- ii. The accused/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. The accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial;
- iv. The bail is being granted to the applicant on the condition that the applicant will have to appear before the Trial Court on 6th of May, 2019 and thereafter appear on such dates as may be directed by the Trial Court.

Sd/-

(Manindra Mohan Shrivastava)

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