

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1012 of 2019**

Ganesh Tiwari S/o Jagannath Tiwari Aged About 35 Years R/o Village Aamapara Kanker, Police Station And District Kanker Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Charama, District Kanker Chhattisgarh.

---- Respondent

For the Applicant : Shri Shakti Raj Sinha, Advocate.

For the Respondent/State : Shri Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.08.2019**

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. 53 of 2019, registered at Police Station – Charama, District Kanker, Chhattisgarh for the offence punishable under Sections 294, 323 and 384 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The offences registered under Sections 294 and 323 of the IPC against the applicants are bailable in nature whereas, the offence under Section 384 of the IPC is not made out according to the contents of the FIR and the other evidence present. The applicant is a

news-correspondent, therefore, he 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 the applicant having a criminal history of 20 cases registered against him under various provisions of IPC. Therefore, looking to his criminal history, he is not entitled for grant of anticipatory bail.

5. In reply, it is submitted by counsel for the applicant that all the previous cases registered against the applicant have been disposed off, therefore, it cannot be made a ground for rejection of this application.

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

7. According to the prosecution case, on the date of incident, the applicant got filled diesel of Rs.500/- in the petrol pump where the complainant was working as an employee. After filling of diesel, it is alleged that the applicant did not pay for the diesel and when the complainant asked for payment, he abused and manhandled the complainant. Hence, this case.

8. After considering all the facts and circumstances of this case, specifically ingredients which are required for commission of offences under Section 384 of the IPC, I feel inclined to grant anticipatory bail to the applicant.

9. 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