

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1476 of 2018

- Ajay Kumar S/o Late Dilip Kumar, Aged About 59 Years, R/o M-699 Adarsh Nagar, Kusmunda, Police Station Kusmunda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Darri, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Non-applicant

For Applicant – Shri Goutam Khetrapal, Advocate.

For Non-applicant/State – Shri Arun Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-01-2019

1. The applicant is apprehending arrest in the enquiry that is being conducted by the respondent/non-applicant on complaint filed by complainant Manish Pandey which has been registered as Complaint No. SP/Korba/CC/1948/18 dated 06-08-2018.

2. It is submitted by learned counsel for the applicant that no case is made out against this applicant to implicate him for commission of any offence. The complainant is son-in-law of this applicant who has filed a totally false complaint before the police making false allegations. This applicant has not concealed his original identity and made use of any fake identity to obtain employment in SECL and there is nothing in support of the allegation made in the complaint. The applicant has apprehension of being arrested for the reason that the Inquiry Officer may take decision of registration of offence against this applicant. Therefore, it is prayed that this applicant may be benefited with grant of anticipatory bail.

Learned counsel for the applicant placed reliance on the order of Andhra Pradesh High Court passed in the matter of **K. Rajasekhara Reddy v. The State of A.P.**, 1998 SCC OnLine AP 313, in which view of Hon'ble the

Supreme Court in the matter of **Gurbaksh Singh Sibbia etc. v. The State of Punjab**, (1) (1980) 2 SCC 565, has been relied upon that filing of a FIR is not a condition precedent to the exercise of the power under Section 438 of the Cr.P.C.

3. Learned counsel for the State/non-applicant opposes the application submitting that the matter is still under enquiry and if the allegations are found correct then the applicant may be prosecuted and he may be needed in the investigation for custodial interrogation. Therefore, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. A complaint has been filed by complainant Manish Pandey before the S.P. Korba which has been registered as aforementioned and the police is making an enquiry in the case so far.

6. As the enquiry is pending since 06-08-2018 and the police is still not taking any decision to lodge FIR in this case and it appears that there may be apprehension in future regarding arrest and detention of this applicant, therefore, under the present circumstances and looking to the indecision of the police so far in lodging FIR against the applicant, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. It is directed that in case the applicant is arrested in a crime which is registered on the basis of aforementioned complaint number, 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 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/her 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge