

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1725 of 2018**

1. Rupesh Mahilang S/o Mahendra Mahilang Aged About 24 Years, District : Mahasamund, Chhattisgarh
2. Kunal Rangari S/o Yashwant Rangari Aged About 30 Years R/o Near Railway Crossing, Police Station Mahasamund, Tahsil And District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Mahasamund , District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh.

---- Respondent

For the Applicants : Shri B.D. Guru, Advocate.
For the Respondent/State : Shri Rahul Tamaskar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.01.2019**

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 applicants who are apprehending arrest in connection with Crime No. 550 of 2018, registered at Police Station – Mahasamund, District Mahasamund, Chhattisgarh for the offence punishable under Sections 364A, 395, 384, 294 and 506 of the Indian Penal Code.
3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. No case is made out against the applicants

on the basis of the material placed before the Court by the prosecution. The only evidence that is present in the case-diary is the memorandum statement by co-accused persons which is not legally admissible. There is no allegation that these applicants had participated in the offence of committing loot etc. Hence, it is prayed that the applicants 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 according to the statement given by complainant – Mithlesh Kumar Das there were 6 persons involved in the incident and so far, only two persons have been arrested, hence, the arrest of these applicants is necessary for the purpose of their identification. Hence, no case is made out for grant of anticipatory bail to the applicants.

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

6. On the date of incident, complainant – Mithlesh Kumar Das who was traveling in a car was abducted by co-accused – Raju Giri and others in which these applicants were also present who then looted the complainant of his possession a cash of Rs.10,400/-, one mobile phone, by threatening him on the point of fake gun.

7. After lodging of FIR, investigation has been done in which the seizure of all the looted articles have been made from co-accused – Raju Giri. As it appears that there is no further seizure of articles has to be made from any of the accused, who have not been arrested in this case and the

identification parade can be held even the applicants are granted anticipatory bail. Hence, under these circumstances, I am of the considered view that the present is a fit case where the applicants 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 applicants in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them 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. They shall cooperate with the investigation and if required, participate in the identification parade. They shall also abide by the following conditions:

- '(i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicants 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 them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge