

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 800 of 2020**

Gyanendra Dewangan S/o Khorbahra Ram Dewangan, aged about 35 years
R/o Village and Post-Patora, Tahsil Patan, District Durg (C.G.)

---- Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police Station- Kurud,
District Dhamtari (C.G.)

---- Respondent

For Applicant	:	Mr. Goutam Khetrapal, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**19/10/2020**

1. The matter is heard through video conferencing.
2. The applicant has filed this application under Section 438 of the Cr.P.C for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 233/2020 registered at police station – Kurud, District Dhamtari (C.G.) for the offence punishable under Sections 420, 467, 468 and 471 of the IPC.
3. According to the case of the prosecution, the applicant is owner of vehicle Highwa bearing registration No. CG07 BJ 3375. The said vehicle was seized by the Mining Inspector on 14/12/2019 for transporting illegal sand. The vehicle was kept for security in the campus of Police station Birejhar. It is alleged that on 17/12/2019, the applicant, without decision of the case, on the basis of forged and fabricated Supurdnama order,

obtained the vehicle from Police station Birejhar. On 16/05/2020, an FIR has been lodged by the complainant and on that basis, offence has been registered.

4. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. Though the applicant is owner of the said vehicle, he neither prepared/submitted the alleged forged Supurdnama order before Police Station Birejhar and obtained the possession of the said vehicle from the said police station. Instead of that, the possession of the said vehicle has been obtained by one Kunal Dewangan. There is no material available on record on the basis of which any case is made out against the applicant, therefore, he prays to extend the benefit of anticipatory bail to the applicant.
5. On the other hand, counsel appearing on behalf of the State opposes the bail application. Referring to the statement of driver namely Ajay Kumar Pal recorded under Section 161 of the Cr.P.C and further referring to forged Supurdnama order dated 17/12/2019, it is submitted by him that the applicant along with Kunal Das and Ajay Pal Singh had gone to the police station, Birejhar with forged Supurdnama order. The applicant being owner of the said vehicle is beneficiary, therefore, prima-faice it establishes that the applicant got released the said vehicle on the basis of forged Supurdnama order. Thus, there is sufficient material available on record on the basis of which, prima-faice case is made out against the applicant. He further submits that custodial interrogation of the applicant is required regarding forgery of alleged Supurdnama order.
6. I have minutely perused the contents of the FIR, Supurdnama order dated

17/12/2019 and also perused the other documents annexed with the case diary and bail petition.

7. After perusal of the above referred documents and argument advanced by the counsel, it appears that the vehicle was initially seized on 14/12/2019 and for the purpose of security of the vehicle, the same was kept in the campus of Police station Birejhar. The entry in this regard has also been made in Rojnamcha Sanha of the said police station on 14/12/2019. From the perusal of the forged Supurdnama order dated 17/12/2019, it reveals that the driver of the said vehicle Ajay Pal was authorized to take possession of the said vehicle, despite of that the vehicle was released in favour of one Kunal Dewangan and his acknowledgment was taken. No reason has been given that why the said vehicle was released in favour of Kunal Dewangan instead of Ajay Pal. There is also nothing in record that who had given the custody of the said vehicle to Kunal Dewangan and on what basis the vehicle was given?. Even no document has been attached or neither any entry has been made in Rojnamcha Sanha register. From perusal of the record, it also appears that on 08/01/2020 Mining Inspector had issued a show cause notice to the applicant to the extent that how the applicant came in possession of the said vehicle. Meaning thereby, the Mining Inspector was well within the knowledge that the applicant is in possession of the said vehicle, yet FIR has been lodged on 16/05/2020.
8. For the reasons mentioned above and considering the facts and circumstances of the case, it is apparent that there was no order of release the vehicle in favour of the applicant and neither the vehicle was

released in favour of the applicant. Further, considering that the FIR has been lodged after four months, therefore, in my considered opinion, it is a fit case to grant anticipatory bail of the applicant.

9. Accordingly, the anticipatory bail application is allowed.
10. 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.10,000/- 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; and
 - iv. 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.
11. Certified copy, as per rules.
12. As disclosed above, it appears that according to Supurdnama order dated 17/12/2019, the vehicle was to be released in favour of Ajay Pal, but the vehicle was released in favour of Kunal Dewangan who was neither the owner nor the driver of the said vehicle. While releasing the said vehicle, the officials of Police Station Birejhar has not made any entry in this regard. Moreover, no entry has been made regarding release of the said vehicle in favour of Kunal Dewangan instead of Ajay Pal, which clearly shows negligence/mala-fide intention of the official of Police Station,

Birejhar. Therefore, concerned Superintendent of Police is directed to make an inquiry against the officer who had released the vehicle in favour of Kunal Dewangan and take necessary action against the said officer. He is further directed to submit the inquiry report before this Court within three months.

**Sd/-
(Arvind Singh Chandel)
Judge**

Rahul