

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 978 of 2020

Md. Arif Khan S/o Late Jameel Ahmed Aged About 60 Years R/o Near Mosque,
Chotapara, District - Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station - Utai,
District - Durg Chhattisgarh.

---- Respondent

For Applicant	: Mr. Siddharth Shukla, Advocate.
For Respondent/State	: Ms. Sunita Jain, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

01/10/2020

1. The matter is heard through video conferencing.
2. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with crime no. 438/2018, registered at Police Station Utai, Distt. Durg(C.G.) for the offence punishable under Section 5 of Explosive Substance Act, 1908 (as submitted by learned Counsel for the State Section 9-B of Explosive Substance Act has also been added).
3. According to the case of prosecution, on 20.11.2018, on the basis of secret information received from informant, Police Officials conducted raid in one Ballast Mine of co-accused Dinesh Sahu situated at village Deurjhal and seized various explosive substance from his godown. Later on Dehati Nalishi was recorded and after investigation charge-sheet has been filed against co-accused Dinesh Sahu and one Doman Lal. Allegations against the applicant is that he has supplied the seized explosive substance to co-accused Dinesh Sahu and also instructed him to illegally kept the explosives to his godown. At the time of filing charge-sheet, it has been filed only against Dinesh Sahu and Doman Lal and the

investigation was kept pending on behalf of present applicant. On the basis of said background, the applicant is apprehending his arrest.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that in FIR as well as in the charge-sheet, name of the applicant is not mentioned. The charge-sheet has been filed against co-accused Dinesh Sahu and Doman Lal and after trial, the Trial Court has acquitted them. There is no material available on record on the basis of which it can be prima facie established that the seized explosive substance have been supplied by the applicant to co-accused Dinesh Sahu. The Counsel further submits that the applicant is 60 years old person and suffering from various diseases like heart problem, kidney failure, hypertension etc. The Counsel lastly submits that no role has been played by the applicant in the crime in question. During course of investigation, the applicant has fully cooperated with the investigation agency. For the above mentioned reasons, it is prayed that the applicant may be granted benefit of anticipatory bail.
5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties.
7. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties, after gone through the contents of FIR, final report earlier submitted by the prosecution agency, acquittal order of co-accused Dinesh Sahu and Domal Lal passed by Sessions Court, other material annexed with the bail application and further considering the fact that there is no direct evidence available on record against the applicant, the seized explosive substance were seized from the possession of co-accused Dinesh Sahu who has already acquitted by the Trial Court and further considering the fact that the applicant is an old aged person and suffering from heart problems, kidney failure and required regular dialysis. Looking to the health condition of the applicant and above mentioned facts. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed.
9. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond for a sum of Rs. 25,000/- with one solvent 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 accused/applicant shall made 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.

Sd/-

(Arvind Singh Chandel)
Judge