

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1816 of 2019

Dharmendra (wrongly mentioned as Dhanendra) Chandrakar, S/o Narsing, Aged about 25 years, R/o Ward No. 10, Shankar Nagar, Durg, Police Station – Mohannagar, Tehsil and District Durg (C.G.)

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, P.S.- Mohan Nagar, Durg, District Durg (Chhattisgarh).

---- Respondent

For Applicant : Mr. Dharmesh Shrivastava, Advocate.

For Respondent/State : Mr. Susheel Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

10/02/2020

1. 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. 294/2019, registered at Police Station Mohannagar, Distt. Durg, Chhattisgarh for the offence punishable under Sections 294, 506, 323, 186, 353, 336, 427, 332, 307 & 34 of the IPC.
2. As per prosecution story, on 28.08.2019, Constable Gangesh Gaytre and Head Constable Mahesh Kumar were on duty in Government Vehicle No. CG 03 7069, at around 7 PM, they received an information that some persons have quarreling in CFS point No. 28819/86. On such information, they reached the spot, they found a dispute arisen between son and father by asking them they told their names Taru and Nakul. When the said Police Personnels tried to understand them, co-accused persons abused them with filthy language, thereafter co-accused Baua Chandrakar reached the spot and he along with the applicant assaulted Constable Gangesh by means of hands, fists, stones and club due to which he sustained

injuries. They have also torn the uniform of injured person. On 28.08.2019, report has been made by Head Constable Mahesh Kumar. On the basis of said report, offence has been registered.

3. 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 according to the FIR, only three persons namely Taru, Nakul and Baua were assaulted the injured Gangesh. The name of the applicant is not mentioned in the FIR. Initially in the FIR, it was mentioned that only three persons assaulted the injured Gangesh and later on it was amended as four persons. As per the contents of FIR, the applicant neither present on the spot nor he assaulted the injured person. All allegations have been made against co-accused persons. The Counsel finally submits that the applicant is a reputed person of his society, he is a permanent resident of above mentioned address and there is no chance of his absconding, therefore, he may be granted benefit of anticipatory bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application and submits that according to the statement of one Sahil Pandey, the applicant was also present on the spot, therefore, prima facie the case is made out against him, therefore, he may not be granted benefit of anticipatory bail.
5. I have heard learned Counsel for both the parties and perused the case diary minutely.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the facts that initially in FIR, the name of present applicant was not mentioned. As per the contents of FIR, the applicant neither present on the spot nor he assaulted the injured person. As per the statements of Constable Gangesh Gaytre and Head Constable Mahesh Kumar recorded under Section 161 of Cr.P.C. also, they have not stated the name of fourth assailant. 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.

7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 20,000/- 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 the 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