

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1881 of 2019**

- Ashutosh Rai S/o Ram Ikbai Rai, Aged About 41 Years R/o Ward No. 8, Naya Baradwar, Police Station Baradwar, Tahsil Sakti, District Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Baradwar, District Janjgir-Champa, Chhattisgarh.

---- Respondent

For Applicant	: Shri Shashank Thakur, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.
For Objector	: Shri Bahiman Roy, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****12/02/2020**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 278/2019 registered at Police Station Baradwar, District – Janjgir-Champa, (C.G.) for the offence punishable under Sections 386/34 of I.P.C.
2. As per the prosecution story, on 19.09.2018 a written complaint has been filed by the complainant against one Mintu Rai and Bholu Patel wherein it has been alleged that one Bholu Patel has disappeared for the last 2-3 years after taking his (complainant) money i.e. Rs. 50 Lakhs and Rs. 20 Lakhs, which he had received from Irrigation Department. Also, Mintu Rai, for the last two months has been

demanding Rs. 50 Lakhs through mobile phone calls and has threatened to kill or abduct, if he fail to give money. On 08.09.2018 around 12:30 noon, complainant gave Rs. 12 Lakhs to Mintu Rai and Lal Mohan Rai in front of Banti Agrawal and Shailesh Modi. Thereafter, Mintu Rai again demanded Rs. 20 Lakhs from complainant and threatened to kill him or abduct his family members, if the demand is not made. Allegedly, when complainant gave Rs. 12 Lakhs to co-accused persons, at that time, present applicant was also present at the spot. Thus, he is also involved in crime in question. Subsequently, on 15.07.2019, again a written complaint has been filed by the complainant, on the basis of which offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that incident occurred on 08.09.2018 and report was lodged by complainant on 19.09.2018. In the report dated 19.09.2018, name of present applicant is not mentioned nor anything else is mentioned regarding his presence on the spot. Though, name of the present applicant is mentioned in the complaint dated 15.07.2019 only to implicate him (applicant) falsely in the case. It is further submitted that in the statement of present applicant recorded under Section 161 of Cr.P.C., he was only standing outside the house of the complainant. Thus, applicant has neither demanded nor threatened the complainant in any manner. Also, in the CCTV footage, presence of applicant is not found on the spot. Thus, *prima facie*, no case is made out against present applicant. Looking to the above, present applicant may be granted benefit of anticipatory bail.

4. Learned Counsel appearing for the State as well as Objector opposes the bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.
6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and further considering the written complaint dated 19.09.2018 wherein name of the present applicant is not mentioned nor any relevant fact is mentioned regarding his involvement in the crime in question, also, after going through the statement of witnesses namely Bunty and Shailesh, it appears that applicant has not played active role in the alleged act, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.
7. Accordingly, the bail application is allowed.
8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory 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 Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :
 - (i) He 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 from disclosing such fact to the

Court,

- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He 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

Prakash