

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 2075 of 2019**

- Jeevan Lal Kamde S/o Shri Dukhu Ram Aged About 50 Years R/o Village, Post, Police Station And Tehsil Chuikhadan, District Rajnandgaon, Chhattisgarh. ---- **Applicant**

Versus

- Prabhu Ram Sonkar S/o Late Shri Manrakhan Sonkar Aged About 54 Years R/o Village Newarikala, Police Station/ Tehsil Balod, District Balod, Chhattisgarh. ---- **Respondent**

For Applicant : Mr. Avinash Chand Sahu, Advocate.
For Respondent : None though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****29-06-2020**

1. Heard on application for impleading the Station House Officer, Police Station Balod, District Balod (CG) as necessary party in the case.
2. Learned counsel for the applicant submits that on the last date of hearing it could not be made clear to the court that the offence under Section 174(A) of IPC has been registered on a private complaint and not by Police. He would submit that in view of the matter, the applicant does not wish to press the application.
3. Accordingly, application for impleading the Station House Officer, Police Station Balod, District Balod (CG) as necessary party is dismissed as withdrawn.
4. Also heard on application filed under Section 438 of Code of

Criminal Procedure, 1973.

5. The applicant has preferred this bail application under Section 438 of Code of Criminal Procedure 1973 for grant of anticipatory bail apprehending his arrest in connection with complaint case No. 133/2018, registered at Police Station Balod - Chief Judicial Magistrate, Balod, District Balod (CG), for the offence punishable under Section 174(A) of IPC.

6. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case. The complaint case against the applicant is not maintainable, in view of the provision under Section 195 (1)(a) of the Cr.P.C., as it is not a complaint filed by any public servant and the complainant/respondent in this case is a private person, therefore, it is prayed that the applicant be benefited with grant of anticipatory bail. He would further submit that in another private complaint against the present applicant containing similar allegations, present applicant has been granted anticipatory bail on identical ground, as raised in this case, in MCRCA No. 37 of 2019 vide order dated 26-9-2019 and a copy thereof has been filed herewith as Annexure A/2.

7. Respondent Prabhu Ram Sonkar is unrepresented despite service of notice.

8. On perusal of the rejection order, it is found that on a complaint filed by the respondent, the trial court has taken cognizance against the applicant for trial for the offence under Section 174(A) of IPC. It is undisputed that the respondent is a private

person and the complaint has not been filed by the Court concerned or any other public servant. Therefore, looking to this technicality, I feel inclined to grant anticipatory to the applicant.

9. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the Arresting Officer and the applicant shall abide by all the following terms and conditions.

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that 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 facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Raju