

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 335 of 2021**

- Mukesh Kumar Singh, Son of late Bhupnarayan Singh (name wrongly mentioned Mukesh Singh in impugned order), aged about 45 years, occupation owner of the vehicle, resident of Kailash Nagar Bhiali, P.S. Supela, District Durg, Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: Station House Officer, Police Station Balrampur, District Balrampur-Ramanujganj, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Avinash Chand Sahu, Advocate
For Non-applicant- State	: Mr. B.L. Sahu, Panel Lawyer

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****22/07/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.6/2021 registered at Police Station Balrampur, District Balrampur-Ramanujganj, (C.G.) for the offence punishable under Section 420 of IPC, 3(1)(c) of Prevention of Damage to Public Property Act and Section 113/194, 66/192 of Motor Vehicles Act.
2. Case of the prosecution is that, on 10.01.2021, police intercepted a truck bearing registration no. CG10 AF 0853, near Balrampur and asked from its driver to show documents/ Bilty papers for transporting of goods loaded on the truck, to which, driver of truck by name Hemgiri Goswami, co-accused, could not able to produce the documents for transportation of goods on the truck. It was also the case of prosecution that the goods loaded in the truck was more than the carrying capacity of the vehicle. On the basis of which, aforementioned offence was registered against the present applicant and

the driver (Hemgiri Goswami) of the vehicle.

3. Mr. Avinash Chand Sahu, learned counsel for the applicant would submit that the present applicant is owner of vehicle in question. He submits that the vehicle was hired by Associate Road Carrier Limited, Khursipar, Bhilai, who had taken contract through tender from Bhilai Steel Plant to transport iron rail track to SJVN, Buxar, Bihar. They have obtained bulity for transporting of iron rail track on two trucks bearing registration no. CG04 JB 9920 and CG04 JB 9983 but subsequently as per direction of officials of Associate Road Carriers the goods which are to be loaded in two vehicles have been loaded in the vehicle of present applicant. He also submits that for that purpose, Bhilai Steel Plant was intimated and as per intimation given to applicant by Associate Road Carriers that they have taken a separate bulity. On the basis of direction and command of hirer of vehicle, after loading the goods from Bhilai Steel Plant, truck was on the way to Buxar, Bihar, where the truck was intercepted by the police. He submits that the applicant is not in any manner connected in the commission of any offence, if any. He further submits that the Associate Road Carriers who are the contractor of transporting the goods from Bhilai Steel Plant has filed an application for taking the custody of seized goods ie. iron rail track loaded in the truck of the applicant by filing an application before Jurisdictional Magistrate, where it was pleaded with regard to loading of goods to be transported in aforementioned two different goods vehicles, were loaded on the vehicle owned by present applicant. He submits that from the pleadings made in the application for custody of seized goods ie. iron rail track itself it is clear that there is no involvement of the present applicant in the instant crime.
4. Mr. B.L. Sahu, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that the driver of vehicle could not able to produce the relevant documents for transportation of

goods loaded in the vehicle of present applicant. There was overloading in the vehicle as well, thus, applicant is also involved in the commission of crime, hence, he is not entitled for benefit under Section 438 of CrPC. However, he does not dispute with the fact stated by learned counsel for the applicant that the contract of transportation of iron rail track from Bhilai Steel Plant has been obtained by Associate Road Carriers, Khursipar, Bhilai. He also does not dispute with the contents of the order dated 10.03.2021 passed by the judicial Magistrate, 1st class, Ramanujganj, Chhattisgarh.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration the nature of allegation levelled, the fact that the present applicant is owner of the vehicle bearing registration no. CG10 AF 0853 on which the iron rail track was being transported was under the direction of the contractor Associate Road Carrier; pleadings made in the application for custody of seized goods by the contractor Associate Road Carriers wherein they have specifically pleaded that it is they who got iron rail track loaded in the truck owned by applicant which was to be transported in two trucks bearing registration no. CG04 JB 9920 and CG04 JB 9983, the liability to obtain e-way bill was upon the contractor for transporting goods in the vehicle owned by applicant, without commenting anything on merits, I am inclined to grant anticipatory bail to the applicant.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with crime in question (6/2021), he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicant shall also abide by the following conditions:
 - (i) that the applicant shall make himself available for interrogation before the Investigation Officer as and when required;

- (ii) that the 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) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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/-
(Parth Prateem Sahu)
Judge