

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 395 of 2021

- Bihari Lal Gavel S/o Late Ghasiya Ram Gavel Aged About 48 Years R/o Village Mukta, P.S. And Tahsil Malkharauda, District Janjgir Champa Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Malkharauda, District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicant : Mr. Awadh Tripathi, Advocate.

For Respondent/State : Mr. Anmol Sharma, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

06/12/2021

1. The applicant has filed this third 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. 17/2020, registered at Police Station Malkharauda, Distt. Janjgir Champa (C.G.) for the offence punishable under Sections 294, 506-B, 323, 34 & 307 of the IPC.
2. First bail of the applicant was dismissed as withdrawn vide order dated 13.08.2020 passed in MCRCA No. 576/2020.
3. Second bail of the applicant was also dismissed as withdrawn vide order dated 19.02.2021 passed in MCRCA No. 106/2021.
4. As per prosecution story, on 03.02.2020 at around 6 PM, complainant Shyam Kumar was in his house at that time one Vijendra Gavel came there and told him that co-accused Vinod Gavel has assaulted him near school. Allegedly, thereafter the present applicant and co-accused persons Vinod Gavel and Pramod Kumar came there and assaulted the complainant by axe due to which, the complainant sustained injuries on back side of his back. On the basis of above, FIR has been lodged against the Applicant.

5. 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 as opined by Doctor, the nature of the said injury is grievous in nature but on what basis he has given his opinion, it is not mentioned in his report. Looking to the injury sustained by Shyam Kumar, prima facie offence under Section 307 of the IPC is not made out. However, the alleged act committed by the applicant falls within the ambit of Section 324 of the IPC only. The Counsel further submits that both the parties have settled their matter, a compromise has already been taken place between them and the other co-accused persons have already granted benefit of anticipatory bail by this Court vide order dated 03.08.2020 passed in MCRCA No. 576/2020. Hence, it is prayed that the applicant may also be granted benefit of anticipatory bail.
6. Per contra, learned counsel appearing on behalf of State opposes the bail application.
7. I have heard learned Counsel for both the parties.
8. 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 both the parties have settled their matter, a compromise has already been taken place between them and the other co-accused persons have already granted benefit of anticipatory bail by this Court. 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.
9. Accordingly, the anticipatory bail application is allowed.
10. 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.
- V. In the future, if the applicant will do the same nature of offence, this order shall automatically stands canceled without further reference to this Court.

Sd/-

(Arvind Singh Chandel)
Judge