

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 453 of 2021**

- Mo. Yunus Muzammil S/o Mo. Yakub Aged About 32 Years R/o House No. 525, Merath Road, Village Sujru, Muzaffarnagar District (Uttar Pradesh)

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Punjipathra, District Raigarh Chhattisgarh.

---- Respondent

For Applicant : Shri Shikhar Sharma, Advocate

For Respondent/ State : Shri Ashish Tiwari, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****04/08/2021**

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicant apprehending his arrest in connection with Crime No. 169/2019 registered at Police Station Punjipathra District Raigarh C.G. for the offence punishable under Section 407/ 34 of I.P.C.
2. As per the prosecution case, truck with iron rod (*Saria*) was loaded from Raigarh on 11.09.2019 which was to reach Fatehpur within few days. Having not reach the destination one Dinesh Vishwakarma who was handling the logistic enquired to the present applicant and the driver of truck Pinto Sardar on phone and it was informed that the truck was seized by the RTO in the way and after release, truck would reach the destination.

Subsequently, it was found that the entire iron rod has been misappropriated.

3. Learned counsel for the applicant would submit that he has given his truck on rent to Hari Logistics and however he is the owner of the truck, but he has no idea if the misappropriation has been done by Pintu Sardar (driver), therefore the applicant may be given the benefit of anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and read out the report lodged by Dinesh Vishwakarma.
5. Considering the statement of Dinesh Vishwakarma that he was assured on phone call that the truck was seized by RTO and present applicant and the driver Pintu Sardar would get it released and reach the destination but eventually it was found that the entire iron rod were misappropriated, therefore, it is not a case where benefit of Section 438 of the Cr.P.C can be granted.
6. Accordingly, the anticipatory bail application is dismissed.

Sd/-

Goutam Bhaduri
Judge

Jyoti