

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 485 of 2021**

- Deep Gupta @ Dharamjit Gupta S/o Mahendra Pratap Agrahari Aged About 32 Years By Caste Vaishya, R/o Moti Nagar Boriyakhurd, Police Station Tikrapara District Raipur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Kurud, District Dhamtari Chhattisgarh

---- Respondent

For Applicant : Shri K.K. Dixit, Advocate

For Respondents/State : Shri Ashish Tiwari, GA

Hon'ble Shri Justice Goutam Bhaduri**Order****30/07/2021**

1. Heard.
2. 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. 346/2020 registered at Police Station Kurud, District Dhamtari (C.G.) for the offence punishable under Section 379/34 of Indian Penal Code.
3. As per the prosecution case, a vehicle bearing registration No.CG 04 HZ 1093 while was involved in illegal sand mining was intercepted by Bhupendra Gabare and was seized on 04.07.2020. Subsequently, the applicant who is the owner of the said vehicle along with the other co-accused fled away with the vehicle,

therefore, the offence under Sections 379/34 IPC is registered.

4. Learned counsel for the applicant would submit that the vehicle belongs to the present applicant and there was a breakdown in the vehicle on 04.07.2020, thereafter, after repairing the vehicle was moved to its destination, therefore, the case under Section 379 IPC is not made out for the reason that the applicant is the owner of the vehicle, owner of the sand and has paid the royalty, therefore, no offence is made out.
5. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and he read out the seizure which was made on 04.07.2020 at about 10 am and would submit that the applicant was caught red handed while transporting the sand and despite the seizure it was forcefully taken away from the possession of the teshsildar/complainant.
6. Having regard to the fact that the vehicle which was involved in illegal sand mining was forcefully taken away after the seizure as per the State counsel, I do not find it a fit case to extend the benefit of Section 438 Cr.P.C.
7. Accordingly, the anticipatory bail application is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu