

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 692 of 2021**

Ajay Singh S/o Gulab Singh, Aged About 35 Years, R/o Rajeev Nagar Zone, B.M.Y. Charoda, Tahsil Patan, District Durg Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police of Police Station Suhela, District Baloda Bazar Bhatapara Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Anil Gulati, Advocate

For Non-applicant/State : Mr. Vimlesh Bajpai, Govt. Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**19.07.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.226 of 2020, registered at Police Station Suhela, District Baloda Bazar Bhatapara (C.G.), for offence punishable under Section 407 r/w 34 of the Indian Penal Code.
2. Case of the prosecution in brief, is that Amarchand Joshi has lodged a complaint with police station stating therein that in the Truck bearing No.CG/07/MA/8595, owned by present applicant, pet-coke/coal was being transported from Visakhapatnam to the cement factory situated at Khapradih. The Truck was driven by Brijesh Singh. When truck entered into the factory premise, pet-coke/coal loaded in the truck was checked by the Quality Control

Department, it revealed that in 29.67 Metric Ton of pet-coke, there was 45% mixing on low quality product. Based upon the complaint, First Information Report was registered against applicant, Brijesh Singh driver of Truck owned by applicant and driver and owner of Truck bearing No.CG/15/AC/0853.

3. Mr. Anil Gulati, learned counsel for the applicant would submit that as per case of the prosecution after getting knowledge of mixing low quality product with pet-coke, one Chandra Shekhar Shukla, Manager of Shri Cement Factory inquired with Brijesh Singh driver of truck owned by present applicant, upon which, he only stated that on the way from Vishakhapatnam to Cement Factory, he has unloaded 5 tones of pet-coke and mixed low quality product. The statement of Chandra Shekhar Shukla was available in the case diary, where he does not mention the involvement of the present applicant in instant crime. He further submits that during transportation Truck and goods are within the custody of driver of Truck and applicant being the owner do not travel along with the vehicle. It was the co-accused Brijesh Singh, driver of Truck who was in possession of vehicle owned by present applicant as well as loaded goods during the course of transit, hence, applicant may be enlarged on bail.
4. Per contra, Mr. Vimlesh Bajpai, Govt. Advocate for the State vehemently opposes the bail application and submits that pet-coke was being transported in the Truck owned by present applicant and he is well aware with regard to commission of instant crime. Involvement of applicant in crime is very much in

the memorandum statement of driver of the Truck owned by applicant.

5. However, upon putting specific query learned State counsel with regard to material collected by Investigating Agency, he submits that there is no any other material against the present applicant except memorandum statement of co-accused driver of Truck Brijesh Singh. He does not dispute the submission of the counsel for the applicant with regard to statement of Chandra Shekhar Shukla.
6. I have heard learned counsel for the parties.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, manner in which offence is said to be committed that pet-coke loaded in the Truck owned by the applicant was unloaded in Sikandar Coal Depot, Mahasamund, in between Visakhapatnam to Factory and also considering the statement of Chandra Shekhar, who is Manager of Shri Cement Factory, without commenting on the merits of the case, I am inclined to enlarge the present applicant on anticipatory bail.
8. Accordingly, bail 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 anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall abide by the following conditions :-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) 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) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge