

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.761 of 2021

1. Santosh Singh, son of Shri Dayaram Kanwar, aged about 35 years, Caste-Kanwar, Occupation Labour, resident of village Aanchhidadar, P.S. Katghora, District Korba (CG)
2. Narad Prakash, son of Shri Mangal Singh, aged about 25 years, resident of village Khodari, PS Pasan, Tahsil Katghora, District Korba (CG)

---- Applicants

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Katghora, Civil and Revenue District Korba (CG)

---- Non-applicant

For Applicants	:	Mr. U.R. Koshley, Advocate
For Non-applicant	:	Mr. Srikant Kaushik, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

9/8/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No.54/2021 registered at Police Station Katghora, District Korba (CG) for commission of offence punishable under Sections 457, 380, 34 of IPC.
2. Case of the prosecution, in brief, is that on 25.2.2021 complainant Smt. Durgeshwar Kashyap has parked her motorcycle bearing registration number CG12-AU-3975 inside government accommodation situated beside Sub-Health Centre, Mohanpur. On 26.2.2021 when she woke up at 6.15 a.m., she found that some unknown person has stolen her motorcycle after breaking open lock of channel gate. She reported the incident to concerned police station by submitting written complaint based upon which instant crime is registered against unknown person. During the course of investigation, co-accused Mangal Singh was taken into custody and on the basis of his memorandum statement, one motorcycle is seized from his possession. Based on the memorandum statement of accused Mangal Singh, present applicants have also been

made accused in instant crime.

3. Mr. U.R. Koshley, learned counsel for applicants would submit that present applicants have been falsely implicated in instant crime. FIR was registered against unknown persons and except memorandum statement of accused Mangal Singh, there is no material in case diary connecting them with crime in question. He further submits that present applicant No.1 has lodged written complaint on 4.6.2021 with respect to abuses, assaults and threat to implicate in a false case given by one police constable by name Narbad Paikra. This complaint against police personnel is submitted by present applicant No.1 much prior to recording of memorandum statement of accused Mangal Singh and registration of offence against present applicant No.1.
4. Mr. Srikant Kaushik, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicants and submits that accused Mangal Singh, who is father-in-law of applicant No.1 and father of applicant No.2, disclosed names of present applicants in his memorandum statement. Hence, it cannot be said that present applicants have been falsely implicated in instant crime. However, learned State Counsel does not dispute application (Annexure A-2) submitted by applicant No.1 to the Superintendent of Police, Korba, which bears seal of the District Police Office, Korba.
5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations and memorandum statement of accused Mangal Singh, father of applicant No.2-Narad Prakash, I am not inclined to extend benefit of anticipatory bail to applicant No.2-Narad Prakash. Accordingly, this anticipatory bail application, so far as it relates to **applicant No.2-Narad Prakash, is hereby rejected.**

7. However, considering the fact that prior to registration of instant crime and recording of memorandum statement of accused Mangal Singh, applicant No.1 has submitted an application before the Superintendent of Police, Korba apprehending his false implication by a police constable, without commenting anything on merits of the case, I am incline to grant anticipatory bail to applicant No.1-Santosh Singh.

8. Accordingly, **anticipatory bail application of applicant No.1-Santosh Singh is allowed** and it is directed that in the event of arrest of **applicant No.1-Santosh Singh** in connection with the crime in question, 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 Arresting Officer. **Applicant No.1-Santosh Singh** shall also abide by following conditions:

- (i) that he shall make himself available for interrogation before Investigating Officer as and when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him/her from disclosing such facts to Court or to any police officer;
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each & every date given to him by said Court till disposal of trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-