

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 806 of 2021

- Hanshu @ Hanshdas, S/o Jamuna Das, Aged About 38 Years R/o Village - Navapara (Amora), Police Station – Mulmula, District - Janjgir - Champa Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh, Through Police Station - Baloda, District - Janjgir - Champa, Chhattisgarh

---- Respondent

For Applicant	: Shri AK Prasad, Advocate
For Respondent/State	: Shri Vimlesh Bajpai, GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

10.08.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehend his arrest in connection with Crime No. 167 of 2021 registered at Police Station Baloda, District-JanjgirChampa, Chhattisgarh for commission of offenses punishable under Sections 147, 148, 149, 323, 458, 324,395, 398 of IPC and 25 & 27 of Arms Act.
2. Case of the prosecution, in brief, is that, in the intervening night of 19-20.05.2021, 7-9 persons came to the house of complainant, some of the persons knocked at door and upon opening of door, entered into the house, started assaulting persons present there, upon which brother of complainant tried to intervene and shouted. Neighbours of complainant also woke up and started opening their doors, upon which, assailants ran away from the spot. During the course of investigation based on motorcycle (Pulsar) seized from the spot, Khayal Das was arrested and his memorandum statement was recorded, based upon which, name of co-accused persons were also impleaded in the instant crime.

3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri AK Prasad, learned counsel for the applicant would submit that applicant has been falsely implicated in the crime, he was not present on the spot on the date of incident, except mention of present applicant in memorandum statement of co-accused Khayal Das, there is no direct involvement of present applicant in the instant crime. Hence, he may be enlarged on bail under Section 438 of CrPC.

5. On the other hand, Shri Vimlesh Bajpai, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that in the intervening night of 19-20.05.2021, some persons knocked at door. Upon opening, they entered into the house with an intention of committing Dacoity, assaulted both the brothers. When complainant and his brother raised their voice that some persons entered into their house, then neighbours woke up and thereafter, assailants ran away from the spot. He submits that name of present applicant is mentioned in memorandum statement of Khayal Das, Suman Das and Sukhman Das. He also submits that other co-accused persons, who were arrested also mentioned present applicant as accused in their memorandum statement. In statement of Suman Das it is specifically mentioned that it is present applicant, who entered into house of complainant with knife. Hence present applicant is not entitled for benefit under Section 438 of CrPC.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against present applicant, facts and circumstances of case, nature of offences which are alleged against present applicant and memorandum statement of Khayal Das, Suman Das and Sukhman Das, I do not find it a fit case to enlarge present applicant on anticipatory bail. Accordingly, bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma