

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 819 of 2021

Vijay Kumar Dayani S/o Prahlad Rai Dayani, Aged About 33 Years, R/o : Power House Road, Singal Toli, Ramnagar, Police Station -Ramnagar, District -Gondia (Maharashtra).

---- Applicant

Versus

State of Chhattisgarh Through District Magistrate, Bilaspur, District -Bilaspur, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Sachin Singh Rajput, Advocate.
For Respondent-State	: Mr. Sudhir Sahu, PL.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

29/07/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.10/2021 registered at Police Station – Civil Line, Bilaspur, (CG), for the offence punishable under Sections 457, 380, 411, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 02.01.2021 Mrs. Manisha Saloman resident of Nehru Nagar, Bilaspur has lodged a report mentioning therein that in night theft has been committed in her house and stolen gold Mangalsutra, Neck-less, Bracelet, two mobile phones and other articles, based upon which, instant crime was registered against known person. During the course of investigating, 3 persons including Umesh Chandra Mishra were arrested and in his memorandum statement, he took the name of present applicant that one of ornament gold mangalsutra has been sold to present applicant. On the basis of which, present applicant is also made accused in this case.
3. Learned counsel for the applicant submits that absolutely false and baseless allegation has been levelled against present applicant.

Applicant is a resident of Gondiya, Maharashtra whereas theft has been committed in Bilaspur, (CG). Applicant is not known to the accused persons who were arrested by the Police during course of investigation, but due to some enmity as he was involved in property dealing business, his name might have been taken. Applicant is not involved in the business of Jewellery but his business is of grocery shop. He submits that except the memorandum statement of co-accused there is no material in the case diary to connect present applicant in instant crime. Hence, applicant may be extended benefit under Section 438 of Cr.P.C.

4. On the other hand, learned State Counsel opposes the submissions made by learned counsel for applicant. He read over the memorandum statement of co-accused Umesh Chandra Mishra and argued that in the memorandum statement name of present applicant is specifically mentioned that he sold the gold mangalsutra to present applicant for Rs.27,000/-. Hence, applicant is not entitled for grant of anticipatory application.
5. Heard learned counsel for the parties.
6. In the memorandum statement of co-accused Umesh Chandra Mishra, it has come that Umesh Chandra Mishra while wandering at Ram Nagar near Railway Station Gondiya, he met with present applicant and he himself stated to applicant that he is in need of some money and wanted to sell out some ornaments in turn applicant purchased gold Mangalsutra.
7. Considering the entire facts and circumstances of the case, nature of allegation levelled against present applicant, materials collected by the Investigating Agency, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions :

- (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-