

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.923 of 2021

- Bhimsen S/o Rammilan, aged about 19 years, R/o village Dongariya, Police Station Pendra, District Gaurela Pendra Marwahi (CG)

---- Applicant

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Kota, Outpost Belgahana, District Bilaspur (CG)

---- Non-applicant

For Applicant	:	Mr. Shrawan K Chandel, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

11/8/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.113/21 registered at Kota, Outpost Belgahana, District Bilaspur (CG) for commission of offence punishable under Sections 147, 148, 149, 294, 302 & 323 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 21.2.2021 complainant party, the accused party went to Marhi Mata Temple, Bhanwaartak and after offering prayer in temple, both the parties were cooking food near the pond. At that point of time, some members of accused party, who were under the influence of liquor, started quarrelling with each other, which was objected by the members of complainant party and they have asked them not to quarrel and use filthy language. Thereafter, the complainant party started taking their lunch. Karan Ratre, after taking his lunch, went little far and sat on motorcycle. 7-8 members of accused party including two female members, came near Karan Ratre and started abusing him. Three persons, who were carrying club and belcha, started assaulting Karan Ratre and caused injuries to him. Thereafter members of accused party left the place of incident. Karan Ratre was taken to the hospital where he was

declared dead. Incident was reported by Sarvesh Manhar, member of injured party, based upon which instant crime is registered against unknown persons. During the course of investigation, on the basis of statement of Akhilesh Kosle, who is engaged in profession of Photography at Marhi Mata Temple, and the photographs saved in his laptop of the date of incident i.e. 21.2.2021, one of the accused persons, by name Ravi Chaudhary was arrested. Memorandum statement of Ravi Choudhary was recorded based on which Kanhaiya Choudhary and Ram Prasad Choudhary were arrested; their memorandum statements were also recorded and based on their memorandum statements, present applicant was made accused in instant crime.

3. Mr. Shrawan Kumar Chandel, learned counsel for applicant submits that FIR was lodged by eyewitness Sarvesh Manhar, a member of injured party, making specific allegation that 7-8 persons came near the deceased, abused him and three persons, who were armed with club & belcha, assaulted him. He further submits that there is no allegation levelled against present applicant by the eyewitness that he also participated in the incident. It is contended that based on the memorandum statement of co-accused persons, present applicant has been implicated in instant crime. Applicant was simply present at the place of incident as he went there in a group of persons for picnic and offering prayer in Marhi Mata Temple. He also submits that it is not the case that present applicant along with other accused persons came on the spot with intent to assault the deceased. The complainant party and present applicant & his group went for picnic and they were enjoying there, however, suddenly some dispute occurred between them which resulted in death of deceased. He further submits that there is specific allegation that three persons, who were armed with club and belcha, have made assaults to deceased. Presence of applicant, who is 19 years of age, was only because he went along with group of persons for picnic and

not for any other reason. He has not committed any offence as alleged against him. He further submits that co-accused who have also been made accused on the basis of memorandum statement, have already been extended benefit of anticipatory bail vide order dated 16.7.2021 in M.Cr.C.(A) Nos.681/2021 & 822/2021, hence he may also be extended benefit of anticipatory bail under Section 438 of CrPC.

4. On the other hand, Mr. B.P. Banjare, learned State Counsel opposes the submissions made by learned counsel for applicant and read over the contents of FIR and statement of Akhilesh Kosle in support of his contention. He submits that Akhilesh Kosle has stated in his statement that about 7-8 persons, in a very aggressive manner, attacked and assaulted the deceased. Applicant was also present near the place of incident and he hurled filthy abuses at the deceased. Learned State Counsel also read over memorandum statements of co-accused Ravi Choudhary, Kanhaiya Choudhary & Ram Prasad Choudhary and submits that they have specifically named present applicant as perpetrator of instant crime.
5. I have heard learned counsel for the parties.
6. Taking into consideration the entire facts and circumstances of case, nature of allegations, particularly the manner in which incident has taken place, as stated by eyewitness/complainant; statement of complainant in which he has specifically stated that 2-3 persons, who were armed with club and belcha, had assaulted the deceased; and further considering the fact that name of present applicant came only in memorandum statements of co-accused Ravi Choudhary, Kanhaiya Choudhary & Ram Prasad Choudhary, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to present applicant.
7. Accordingly, this anticipatory bail application is allowed and it is directed that in the event of arrest of applicant 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 shall also abide by the 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/-