

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC (A) No.988 of 2021**

Lokesh Kumar Sahu S/o Shri Sewa Ram Sahu, aged about 30 years R/o Village. & Post Janjgiri, Teh. Dhamda, Distt. Durg (C.G.)

---- Applicant**Versus**

State of Chhattisgarh Through P.S.- Purani Bhilai, District Durg (C.G.)

--- Respondent

For Applicant	: Mr. Praful N. Bharat, Senior Advocate along with Mr. Keshav Dewangan, Adv..
For Respondent-State	: Mr. Amrito Das, Addl. Adv. General

(Proceedings through video conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****31/08/2021**

Heard.

1. The applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No. 285/2021 registered at Police Station –Purani Bhilai, Distt. Durg (CG) for the offence punishable under Section 384 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that a report is lodged against the applicant stating therein that on account of death of father of the Complainant, as per scheme of the Central Government, Rs. 1,00,000/- towards ex gratia was deposited in the account of his mother. After deposit of money of Rs. 1,00,000/-, the applicant approached to the Complainant and made a demand of Rs. 40,000/- as commission/ charges, to which the Complainant stated that the amount asked by the applicant to be excessive. The applicant threatened him of dire consequences upon which the Complainant handed over him Rs. 10,000/- on 12/07/2021 in presence of his mother and his friend Sumit. On the next day i.e. on 13/07/2021, when the Complainant was on the way along with his friend Rahul, the present applicant stopped him and

asked for balance amount and also threatened him of dire consequences. Thereafter, the complaint was lodged on 02/08/2021 making allegations against the applicant. Based upon the written complaint, the instant crime has been registered.

3. Learned Senior counsel appearing on behalf of the applicant submits that the applicant, at no point of time, had interacted with the Complainant with regard to commission on the ex gratia amount deposited in the account of mother of the Complainant. He further submits that prior to deposit of ex gratia amount, the Complainant approached to the applicant to which the applicant asked him to discuss with one Sapna Dewangan. The Complainant has discussed and understood the process with regard to submission of form for ex gratia amount for death of Covid-19 infected person. He further submits that the allegation has been levelled against the applicant only because he is councillor of Nagar Palika Parishad, Kumhari. The applicant himself has lodged a report in the concerned police station on 23/07/2021 apprehending that the Complainant may implicate him in a false case, upon which the police initiated the proceeding under Section 155 of the Cr.P.C. The proceeding under Section 155 of the Cr.P.C is placed on record as Annexure-A-2. He also submits that the applicant, looking to the intention of the Complainant, has further lodged the complaints before SHO and Superintendent of Police, Durg on 24/07/2021 and 04/08/2021, respectively. Complainant lodged complaint with police against applicant much prior of registration of FIR against him. He further submits that the applicant is an elected Councillor and punishment under Section 384 of the IPC is imprisonment up to 3 years or fine, hence, the benefit under Section 438 of the Cr.P.C may be extended to the applicant.

4. Learned Additional Advocate General appearing on behalf of the State submits that there are specific allegations with regard to demand of money and threat of dire consequences to the Complainant who is aged about 18 years only. He submits that it is a case where the applicant has made demand of money and given threat in presence of eye-witnesses. In pursuance of demand by the applicant, Complainant has handed over Rs. 10,000/- to the applicant on 12/07/2021 in his house. Applicant on 13.07.2021 again demanded balance money in present of his other friends. He submits that in the facts of the case, applicant is not entitled for the benefit of Section 438 of the Cr.P.C.
5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegation levelled against the applicant and the fact that the applicant is an elected Councillor, and the punishment as provided under Section 384 of the IPC is imprisonment up to 3 years or with fine or with both, without commenting anything on merits of this case, I am inclined to grant anticipatory bail to applicant.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with 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 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 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 said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

rahul