

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.1272 of 2021**

- Rajesh Sahu, S/o Shri Lala Ram Sahu, aged about 30 years, R/o Village Kutkipara, Tahsil Sahaspur Lohara, District Kabirdham (CG)

---- Applicant**Versus**

- State of Chhattisgarh, through the Station House Officer, Police Station Balod, District Balod (CG)

---- Non-applicant

For Applicant	:	Mr. Dharmesh Shrivastava, Advocate
For Non-applicant	:	Ms. Shivali Dubey, Panel Lawyer.
For Objector	:	Mr. Atanu Ghosh, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****06/12/2021**

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to applicant as he apprehends his arrest in connection with Crime No.314/2021 registered at Police Station Balod, District Balod (CG) for commission of offence punishable under Sections 392, 34 of IPC.
2. Case of prosecution, in brief, is that on 15.9.2021 complainant lodged written report in police station stating therein that complainant is auction purchaser of truck bearing registration number CG09-JE-8987 from Sriram Finance Company Ltd. vide auction dated 15.5.2020 for consideration of Rs.15,00,000/-. Thereafter complainant incurred expenses of Rs.7,52,000/- on repairs of truck for bringing it into running condition. In the month of January, 2021 applicant snatched said truck from possession of driver of complainant when it was on the way transporting goods. Based on written report, aforementioned crime is registered against applicant.
3. Mr. Dharmesh Shrivastava, learned counsel for applicant would submit that applicant has purchased truck in question under hypothecation from Sriram Finance Co. Ltd. Applicant could not able to pay two instalments, therefore, finance company seized truck from his possession and when dispute was raised, truck was kept at Police Station Sahaspur Lohara.

Applicant moved an application under Section 457 CrPC before the Court of jurisdictional Magistrate seeking interim custody of truck registered in his name. The Magistrate upon hearing learned counsel for applicant, State and Objector, allowed application vide order dated 6.2.2021, granted interim custody of truck to applicant and since then applicant was using said truck as owner. After lodging of report on 15.9.2021, truck was seized from possession of applicant on 23.9.2021. From the aforementioned facts it is apparent that applicant has not committed any offence as alleged against him and report is lodged with ulterior motive levelling false allegations against applicant after delay of seven months of the incident. Hence, applicant may be extended benefit of anticipatory bail under Section 438 CrPC.

4. Per contra, Ms. Shivali Dubey, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that as per written report, complainant purchased truck in auction held by Sriram Finance Company for consideration of Rs.15,00,000/- and since then he was in possession of it. In the month of January, 2021 applicant robbed it from possession of driver of complainant. Hence, aforementioned crime is registered against him and vehicle in question was seized from his possession. She submits that in view of facts and circumstances of case, applicant is not entitled for benefit of anticipatory bail.
5. Mr. Atanu Ghosh, learned counsel for complainant/ objector would submit that in written report there is specific allegation that applicant robbed truck in question from possession of driver of complainant by assaulting him. Sriram Finance Company is having entire material of auction proceedings by which applicant purchased truck in question. Hence, applicant is not entitled for benefit of anticipatory bail.
6. However, learned State Counsel as also learned counsel for Objector do not dispute document dated 6.2.2021 Annexure A-2, filed along with application, which is an order passed by

Magistrate concerned under Section 457 CrPC granting interim custody of truck in question to applicant. Learned counsel for Objector further submits that order dated 6.2.2021 was put to challenge in revision before the revisional court, which was dismissed against which a criminal miscellaneous petition is pending consideration before the High Court.

7. I have heard learned counsel for the parties.
8. Having regard to facts and circumstances of case; nature of allegations to the effect that as per complaint, alleged incident took place in the month of January, 2021 but FIR is lodged only on 15.9.2021, application filed by applicant under Section 457 CrPC was allowed by Magistrate on 6.2.2021 in his faovur much before lodging of FIR, without commenting anything on merits of case, I am inclined to extend benefit of anticipatory bail to applicant.
9. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of applicant in connection with 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 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 the 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 trial Court on each and every date given to him by said Court till disposal of trial.

Sd/-
(Parth Prateem Sahu)
Judge

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