

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No.668 of 2020**

Smt.Lata Verma @ Madhu Pandey, W/o Late Narendra Pandey, Aged about 44 years, Residing at House No. EWS 146 Maharana Pratap Nagar, Korba, Tehsil & District – Korba, Chhattisgarh

---Petitioner

Versus

- 1.State of Chhattisgarh through Director General of Police, Police Head Quarter, Raipur, District – Raipur, Chhattisgarh
- 2.Superintendent of Police, Korba, District – Korba, Chhattisgarh
- 3.Police Station Officer – Kotwali Korba, District – Korba, Chhattisgarh
- 4.Assistant Sub-Inspector Sub-Police Station (Rampur) Police Station Kotwali, Korba, District-Korba, Chhattisgarh

---Respondents

For Petitioner	:	Mr.Ashutosh Shukla, Advocate
For Respondents	:	Mr.Jitendra Pali, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

06/01/2021

1. By way of this writ petition, the petitioner has complained that offence under Section 474 of the IPC has been registered against her and for which she has moved an application for grant of anticipatory bail, which has been rejected by the learned Additional Sessions Judge (F.T.C.), Korba on

21.8.2020 on the premises that offence under Section 474 of the IPC is bailable offence and thereafter she has approached the Station House Officer, Police Station-Kotwali (Sub-Police Station Rampur) for releasing her on bail as offence under Section 474 of the IPC is bailable and thereafter to the Superintendent of Police, Korba by letter dated 23.11.2020, yet her bail bonds are not being accepted by the concerned Station House Officer, whereas in the matter of bailable offence, bail is a matter of right by virtue of the provisions contained in Section 436 of the CrPC, therefore, appropriate direction be issued to the concerned Station House Officer, Police Station, Kotwali (Sub-Police Station Rampur), Distt. Korba to accept her bail bonds and to enlarge her on bail as she is woman and ready & willing to furnish bail bonds.

2. When the matter was taken-up for hearing, Mr.Jitendra Pali, learned Deputy Advocate General sought and granted time to seek instructions and when the matter is taken-up for hearing at 2.15 p.m. he informed to the Court that the petitioner is not available in her residence and if she furnishes bail bonds, her bail bonds will be accepted and she will be released on bail.
3. Mr.Ashutosh Shukla, learned counsel for the

petitioner, would submit that in bailable offence, bail is a matter of right and once he/she is ready and willing to furnish the bail bonds, he/she ought to have released on bail.

4. Mr. Jitendra Pali, learned Deputy Advocate General for the respondents/State, would submit that as and when she approaches the concerned police officer, she will be released on bail.
5. I have heard learned counsel for the parties and considered their submissions and went through the documents with utmost circumspection.
6. Section 436 of the CrPC provides as under:-

"436. In what cases bail to be taken.--(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may and shall, if such person is indigent and is unable to furnish surety, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Explanation.--Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso.

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116 or section 446A .

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446."

7. The provisions of Section 436 of the CrPC is mandatory in nature and the court/police officer in-charge of police station is bound to release the accused person who is an accused of bailable offence provided he or she is prepared to give bail bonds in terms of Section 436 (2) of the CrPC .
8. Reverting to the facts of the present case, it is quite vivid that admittedly, the petitioner is an accused of bailable offence under Section 474 of the IPC, she has a right to be released on bail if she furnishes bail bonds in terms of Section 436 of the CrPC, which according to learned counsel for the petitioner that she is ready and willing to furnish bail bonds. In that view of the matter, it is directed to the concerned Station House Officer/competent police officer that if the petitioner is arrested, she shall be enlarged on bail forthwith if she furnishes bail bonds in terms of Section 436 (2) of the CrPC after due formalities.

9. With the aforesaid observation/direction, the writ petition finally stands disposed of. Learned Deputy Advocate General is directed to communicate the order to the concerned authorities forthwith.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-