

M.Cr.C. No.8398/2013

31.01.2014

Shri Mitesh Jain, learned counsel for the applicant.

Shri B. L. Yadav, learned Dy. A. G. for the non-applicant No.1/State.

Shri H. K. Sharma, learned counsel for the non-applicant No.2.

Arguments heard. Case diary perused.

This is application filed by the applicant under Section 438 of Cr.P.C, for grant of anticipatory bail. The applicant is apprehending his arrest in connection with Crime No.24548/2013 registered at Police Station-M.G. Road, District-Indore for an offence punishable under Sections 420 of IPC, on the basis of the private complaint lodged by the non-applicant No.2.

Learned counsel for the applicant has submitted that the applicant after completing M.Sc. in Chemistry subject was appointed as Government Examiner of Question Documents Bureau of Police Research & Development, Ministry of Home Affairs, Government of India, Kolkata and there he had worked from 16.10.1967 to 31.05.1996. After his retirement from the aforesaid department, he also worked

as Examiner in Indian Academy of Forensic Science. The allegation against him is that he issued fake certificates to number of persons. It is also submitted that he is not a qualified hand-writing expert and on the basis of his experience, he is doing the aforesaid work and giving his expert opinion.

Learned counsel for the applicant further submits that the applicant is 75 years of age and on the basis of private complaint, case was registered against him under Section 420 of IPC, which is triable by Judicial Magistrate. He also submitted that the matter was examined by the office of Senior Superintendent of Police, Indore and on 21.05.2013, report was submitted to the Human Rights Commission, Bhopal.

He submitted that he has not given any false expert opinion and on the basis of experience and degree of M.Sc. in Science, which has been recognized by the various institutions working as hand-writing expert.

On the other hand, learned counsel for the non-applicant No.2 drew my attention to the report dated 21.05.2013 and submitted that there are severe charges against the applicant and he after issuance of notice, gave his

appearance and thereafter, he was absent and therefore, warrant of arrest was issued against him. He also submitted that in view of the law laid down by the Principla Seat, Jabalpur and Gwalior Bench, the application for grant of anticipatory bail is not maintainable and submits that he has to file an application under Section 70(2) of the Cr.P.C..

In view of the law laid down by the Apex Court in the matter of **Bharat Chaudhary and another vs. State of Bihar and another reported in 2003 AIR SCW 5092**, the application filed by the applicant is maintainable.

On due consideration of the facts and circumstances of the case and the nature of allegation made and also to the fact that at the time of appointment, was not possessing degree of M.Sc. in Science, I am of the considered view that it is a fit case to allow the application for grant of anticipatory bail of the applicant. Therefore, this application is allowed and it is directed that in the event of arrest by the arresting officer the applicant shall be released on bail subject to his furnishing a personal bond in the sum of Rs.30,000/- with one surety of like amount to the satisfaction of the Arresting Officer, subject to abiding the conditions enumerated under Section 438 (2) of Cr.P.C. and he will

cooperate with investigating officer. This order shall be valid for a period of six weeks from today. In the meanwhile, the applicant may apply for regular bail within the aforesaid period of six weeks before the competent Court.

Certified copy, as per rules.

(P. K. Jaiswal)
Judge

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