

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1004 of 2019**

- Arpit Jain S/o Late Ajeet Kumar Jain Aged About 33 Years R/o F- 23, Panchsheel Nagar, Civil Lines, Raipur, Tahsil And District- Raipur, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through P.S.- Civil Lines Raipur, Chhattisgarh

---- Respondent**MCRCA No. 1301 of 2019**

- Pranay Jain S/o Shri Mahendra Kumar Jain Aged About 30 Years R/o Taigore Nagar, D- 350, Raipur, District Raipur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Civil Line, Raipur, District Raipur Chhattisgarh

---- Respondent

For the Applicants	:	Mr. N. Naha Roy and Mr. Raghvendra Pradhan, Advocate.
For the Respondent/State	:	Mr. Roshan Dubey, Panel Lawyer.
For the objector	:	Mr. Goutam Khetrapal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****30/08/2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the similar incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicant for grant of

anticipatory bail. It is submitted by the counsel for the applicant that the applicant in both the cases is apprehending arrest in Crime No.327/2019, registered at Police Station– Civil Lines, Raipur, District- Raipur, C.G., for the offence punishable under Sections 394 r/w Section 34 of the Indian Penal Code.

2. Learned counsel for the applicant submits that there had been some money dispute between the applicants and the complainant. A complaint was filed by the applicant which was earlier inquired and a report was given by the police that no such incident has taken place. Subsequent to which, this applicant approached this High Court by filing of a W.P.(Cr.) No.682/2019 and on the basis of the order passed in that case, the F.I.R. has been registered against the applicant. Therefore, it is a clear case of false implication. Hence, it is prayed that application under Section 438 of Cr.P.C. be allowed.
3. On the other hand, learned counsel for the State opposes the bail application and submits that there is a clear statement of the complainant himself and one witness in support of the commission of offence by the applicants, therefore, the applicants are not entitled for grant of anticipatory bail.
4. Learned counsel for objector submits that the applicant- Arpit Jain in M.Cr.C.(A.) No.1004/2019 is a very influential person for the reason that his mother-in-law is Deputy Superintendent of Police and his wife is a Deputy Collector. Therefore, the inquiry report has been given under influence. This report does not mention that the complainant has resiled from his statement and further there is evidence to show

that offence was committed under Section 395 of I.P.C. and under Section 394 of I.P.C. because the person involved were 8 to 9 in numbers. Hence, the detention of the applicants is necessary for identity of the other accused persons and also for making seizure of the looted items.

5. In reply, it is submitted that the complainant himself is not a man of virtue and truthful because he himself has obtained a forged medical degree. Hence, he should not be released.
6. Heard counsel for both the parties and perused the case diary.
7. According to prosecution case, the F.I.R. lodged against the applicant states that some music event was to be organized, in which the applicants and the complainant were the partners. However, the program failed and resulted in some losses. It is alleged that about 2 and half months prior to the lodging of F.I.R., the applicant- Arpit Jain by sending a whatsapp message to the complainant stated that he has suffered lose of Rs.30,00,000/- which has to be paid by the complainant and in case, he does not pay, he was threatened with dire consequences. Thereafter, on 01.11.2018, the complainant called the applicant- Arpit Jain to a place, where he was present with Pranay Jain and other 7 to 8 persons. When the complainant arrived, he was assaulted and beaten and a barrel of a gun was inserted into his mouth by the applicant- Arpit Jain. The complainant was threatened that his daughter would be abducted and he was demanded Rs.40,00,000/- within a period of 20 days. Thereafter, the complainant was forced to sign some papers and the cheque book which was

present in his car, a gold chain of the complainant was also looted from his possession by the applicants and their associates. Because of this Marpeet, the complainant has lost hearing in his left ear. Hence, this case.

8. In the order dated 19.02.2019 passed in W.P.Cr. No.682/2018, it is observed that the complainant had reported commission of cognizable offences, therefore, there was no scope for preliminary inquiry and it was duty of the police to lodge F.I.R. On perusal of the inquiry report, it is found that some of the witnesses did not to make any statement. However, the statement of he complainant and his wife was present and in between the present investigation, some evidence of other witnesses has also been collected. Therefore, at this stage, it cannot be said that it is a false case. Hence, I do not feel inclined to allow this application.
9. Accordingly, the applications filed under Section 438 of Cr.P.C. are rejected for both the applicants.

Sd/-
(Rajendra Chandra Singh Samant)
Judge