

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 702 of 2015

- 1. Ramdhan Patel S/o Sewakram (Retired Teacher) Aged About 74 years R/o Village Kanwlajhar, Police Station And Tah. Dabhra, District Janjgir Champa Chhattisgarh.
- 2. Smt. Putri Bai W/o Ramdhan Aged About 66 Years R/o Village Kanwlajhar, Police Station And Tah. Dabhra, District Janjgir Champa Chhattisgarh.
- 3. Khagesh Kumar Patel S/o Ramdhan Patel Aged About 40 Years R/o Village Kanwlajhar, Police Station And Tah. Dabhra, District Janjgir Champa Chhattisgarh.
- 4. Smt. Champa Patel W/o Khagesh Kumar Aged About 30 Years Occupation Service, Employment Assistant, Gram Panchayat Kawlajhar, Janpad Panchayat Dabhra, R/o Village Kanwlajhar, Police Station And Tah. Dabhra, District Janjgir Champa Chhattisgarh.

----Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Adim Jati Kalyan Thana, Janjgir Champa Chhattisgarh.

---- Respondent

For Applicants	-	Shri H.S. Patel, Advocate
For Respondent/State	-	Shri Manish Nigam, Panel Lawyer

Order On Board

07/08/2015

Heard.

- 1. The applicants are apprehending their arrest in connection with Crime No.7/2015 registered at police station – Adim Jati Kalyan Thana, Janjgir-Champa (CG) for alleged commission of offence under Section 294, 341, 506/34 of IPC and Section 3 (i) (iv) (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (In short “the Act of 1989”).
- 2. Prosecution case is that the land in dispute belongs to complainant Kuswaram a tribal and it is alleged that during the period, Kuswaram was in employment and posted at different places, the applicant No.1-Ramdhan Patel grabbed his land and house in the village which amounts to wrongful dispossession. When the complainant came to the applicant No.1 and

asked him to vacate the house so that, he could live there, it is alleged, the applicants refused to vacate the premises, threatened and abused the complainant.

3. Learned counsel for the applicants submits that applicant No.1 is duly recorded Bhumiswami of the land in dispute. In support of this claim, he has placed on record the certificate of conferral of Bhumiswami right as also the *khasra panchshala* recording his possession.

4. It is submitted that applicant No.1 having been conferred Bhumiswami right, the claim of complainant that he is the owner of the house is false and in order to recover possession of the house without seeking relief from a Civil Court or Revenue Court, the complainant has lodged report in the police Station to somehow get back the possession.

5. On the other hand, learned State counsel opposes prayer for grant of anticipatory bail and submits that upon preliminary enquiry, it was found that the complainant's ancestor were recorded as lease holder of the land and prima facie, it is a case of wrongful dispossession of the complainant by the applicants, therefore, the case under Section 3(i)(iv)(v) is prima facie made out and the bail application is barred under Section 18 of the Act of 1989.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the documents prima facie evidencing and possession of the applicants over the disputed land, it is a fit case where the applicants are entitled to protection of anticipatory bail.

7. Therefore, in view of the orders passed by this Court in ***Satyaprakash Vs. State of C.G., 2004 (1) C.G.L.J. 162 & Abdul Abbas Vs. State of C.G., 2005 (2) C.G.L.J. 235***, bar under Section 18 of the Act of 1989 would not come in the way so as to deny anticipatory bail to the applicants, particularly when all other offences are bailable in nature.

8. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and they shall abide by all the following terms and conditions-

- i. that they shall make themselves available for interrogation by a Police Officer as and when required;
- ii. that they 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 them from disclosing such facts to the Court or to any Police Officer.

- iii. that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- iv. that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava

J U D G E

Rekha