

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 202 of 2016

1. Shri Chandrika Dubey S/o Makhan Dubey Aged About 80 Years
2. Vimal Kishor Dubey S/o Chandrika Dubey Aged About 41 Years,
Both R/o Village Chiniya, Chouki Vijay Nagar, P.S. Ramanujganj,
District Balarampur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Chouki Vijay Nagar, P.S.
Ramanujganj, District Balarampur, Chhattisgarh.

---- Respondent

For applicants – Shri Vineet Pandey, Advocate.
For Respondent/State –Miss. Sunita Jain, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

15/03/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No. 182/2015 registered at Police Station Ramanujganj, District Balarampur (C.G.) for offence punishable under Sections 147, 148, 149, 294, 307 of IPC and 3(2) (v) of S.C. & S.T. Prevention of Atrocity Act 1989.
2. As per the prosecution case on 19/11/2015 to take over possession of paddy the quarrel broke out in between one party Dasrath, Guteli Devi and Sunil and other one i.e. Chandrika Dubey, Vimal Kishor Dubey the two applicants and Anil Tiwari. A free fight took place in between the parties whereby both the parties sustained severe injuries and the report and counter report was also made. Thereby, offence is committed.
3. Learned counsel for the applicants submits that applicant No.1 Chandrika Dubey he is more than 80 years of age has been severely beaten by the complainant Dashrath and Sunil and he has sustained lacerated wound and injury on his head and the other son also sustained injury and both parties were claiming right over the paddy and it is yet to be ascertained

as to whether paddy on which right were claimed belong to the complainant or not as at the similar time applicants have claimed their right over the paddy. Learned counsel for the applicants submits that he do not want to press bail application in respect of applicant No.2 Vimal Kishor Dubey and submits that case of the applicant No.1 Chandrika Dubey may be considered considering the age and role played by the applicant No.1 and entire allegations are on the Vimal and Anil Tiwari, therefore the applicant No.1 Chandrika Dubey may be granted benefit of anticipatory bail.

4. Accordingly, bail application in respect of applicant No.2 Vimal Kishor Dubey is dismissed as not pressed.

5. Learned State counsel opposes the prayer for grant of bail.

6. I have perused the case diary and the statement. Perused the FIR wherein it shows that quarrel broke out on the issue of taking away paddy from the field as both the parties were claiming right over the paddy. Perusal of the statement would show that entire allegations have been primarily attributed to the other two accused i.e. Vimal and Anil. Taking into primary allegations which is attributed to other co-accused and considering age of applicant No.1 Chandrika Dubey he is aged about 80 years, prima facie it appears considering the allegations bar of Section 18 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act would not apply in case of this applicant, therefore I am inclined to extend benefit of anticipatory bail to the applicant No.1 Chandrika Dubey.

7. Accordingly, the anticipatory bail application in respect of applicant No.1 Chandrika Dubey is allowed and it is directed that in the event of arrest of the applicant No.1 Chandrika Dubey in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant No.1

shall also abide by the following conditions:-

- (i) that the applicant No.1 shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant No.1 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 him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant No.1 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant No.1 shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE