

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 418 /2016

Suresh Kumar Upadhyay, S/o. Dr. B.N. Upadhyay, Aged About 40 Years,
By Caste - Bramhan, Occupation Patwari, R/o. Darbaritoli, Jashpur, Distt.
Jashpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station -
Farsabahar, Distt. Jashpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Awadh Tripathi, Advocate.
For Respondent : Mr. Anil S. Pandey, Govt. Advocate.

And

M.Cr.C.(A) No. 440 /2016

1. Smt. Anita Yadav, W/o. Lavkush Yadav, Aged About 30 Years, Caste -
Ahir, Occupation - Panchyat Secretary, R/o. Village - Kotanpani, P.S. &
Tahsil Kansabel, Civil & Revenue Distt. Jashpur, Chhattisgarh.
2. Smt. Janki Bhagat, W/o. Kunjbihari, Aged About 48 Years, Cast- Oran,
Occupation- Sarpanch, Khuntgaon Gram Panchayat, R/o. Village
Khutgaon, Police Station & Tahsil Farsabahar, Civil & Revenue District
Jashpur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through Police Station, Farsabahar, District
Jashpur, Chhattisgarh.

---- Respondent

For Applicants : Mr. Arun Shukla, Advocate.
For Respondent : Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13/05/2016

1. Both the bail applications filed under Section 438 of Cr.P.C. are
heard together and decided by this common order as they are
similar in nature.

2. Apprehending arrest in connection with Crime No.98/2015 registered at Police Station- Farsabahar, District Jashpur (C.G.) for the offence punishable under Sections 420, 467, 468, 471, 120-B of Indian Penal Code, the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
3. As per the prosecution case, one Sukhdev & Bhuleshwar were holding a land bearing Khasra No.487 and they were son of Lukru. One Nakul who was the relative of Sukhdev & Bhuleshwar filed an application before the Patwari that Sukhdev & Bhuleshwar were dead therefore his name may be recorded. The Patwari namely Suresh Kumar Upadhyay on that basis forwarded the application to the Gram Panchayat and the Gram Panchayat after receipt of such application proceeded to record the name of Nakul after proclamation and name of Nakul was recorded. Subsequently, Sukhdev & Bhuleshwar appeared in person and stated that they are alive, therefore, it is stated that fraud has been committed by Nakul in connivance of these applicants.
4. Learned counsel for the applicant would submit that the applicant Suresh Kumar Upadhyay who is the Patwari was under bounden and duty that if any application is filed for mutation to forward the same to Gram Panchayat under Section 109 of the C.G. Land Revenue Code. Further the counsel for the applicants Anita Yadav & Janki Bhagat submits that the Gram Panchayat acted under the domain and procedure which were followed for mutation of name and since the proclamation was done and after proclamation the name of Nakul was recorded, no illegality can be attributed to applicants. They further submits that there is no iota of any suspicion to disbelieve the statement of Nakul who was the relative of Sukhdev & Bhuleshwar that such statement are false, as such,

the entire fraud was committed by Nakul and therefore, the applicants may be enlarged on bail, as they have discharged their official duties.

5. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
6. Perused the case diary and the documents. It appears that on the basis of the application given by Nakul, mutation of name in the revenue records was proceeded by the applicant Suresh Kumar Upadhyay and on that basis the Gram Panchayat acted and mutated the name wherein applicants Anita Yadav & Janki Bai are the Panchayat Secretary & Sarpanch. Therefore, considering the role played by these applicants under the facts and circumstances, I am inclined to allow both the bail application.
7. Accordingly, the anticipatory bail applications are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on furnishing a personal bond to a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicants 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/-
(Goutam Bhaduri)
Judge

Ashok