

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 590 of 2016

Gyandas Bairagi S/o Badrika Das, Aged About 70 Years, R/o Village Bhainapara, Police Station Kharsia, District Raigarh, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Office, Police Station Kharsia, District Raigarh, Chhattisgarh.

And

MCRCA No. 591 of 2016

1. Amarnath Bairagi S/o Gyandas Bairagi, Aged About 26 Years,
 2. Amar Shankar Bairagi S/o Gyandas Bairagi Aged About 18 Years
- Both R/o Village Bhainapara, Police Station Kharsia, District Raigarh, Chhattisgarh.

----Applicants

Versus

State Of Chhattisgarh Through Station House Office, Police Station Kharsia, District Raigarh, Chhattisgarh.

---- Respondent

For applicants –Shri Ashish Gupta, Advocate.
For Respondent/State – Ms. Sunita Jain, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

3/08/2016

1. Both these anticipatory bail applications are decided by this common order as they are arising out of the same crime number.
2. These applications under Section 438 of Cr.P.C. have been filed by the applicants apprehending their arrest in connection with Crime No. 200/2016 registered at Police Station Kharsia, District Raigarh (C.G.) for offence punishable under Sections 451, 354, 294, 323/34 of the Indian Penal Code.
3. As per the prosecution case, on 13/05/2016 a report was made by the victim that she was sleeping in the cot, at that time one Gyandas Bairagi who is also related to the victim came there pressed her breast and having objected, dispute arose and she was abused. Subsequently, Amarnath

Bairagi and Amar Shankar Bairagi intercepted and caught hold of the Lingraj Das Bairagi and he was assaulted by Amarnath Bairagi and Amar Shankar Bairagi.

4. Learned counsel for the applicants submits that infact the incident had happened over the dispute over a pathway and on the same date a report was made by Gyandas Bairagi as he was assaulted by way of sickle and in such report police never intervened on the ground that there is dispute over the lane. Learned counsel submits that since report was made initially by Gyandas Bairagi as a counter blast such report was made. Therefore, he submits that the applicants may be granted benefit of anticipatory bail.

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

6. Perused the documents and the statement. Perusal of Annexure A-2 would show that initially a report was made by Gyandas Bairagi against Lingraj Das Bairagi and the police did not intervene in the matter on the ground that dispute was about the pathway. At the same time, report is made by the prosecutrix who is also related with Gyandas Bairagi who tried to outrage modesty of the victim. Case diary also shows two lacerated wound was inflicted on Lingraj Das Bairagi. Nature of injury has been shown to be simple. Taking into background of the case and the fact that applicant Gyandas Bairagi is aged about 70 years and also considering the report which was made by applicant Gyandas Bairagi, I am inclined to extend benefit of anticipatory bail to the applicants.

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 each of them executing a personal bond in 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) 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