

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 778 of 2016

1. Mahesh Pali S/o Heeralal, Aged About 28 Years,
2. Sanjay Pali S/o Heeralal, Aged About 23 Years,
3. Rajesh Kumar Pali S/o Motilal, Aged About 31 Years,

All are R/o Village Bachedi, Police Station And Tahsil Sahaspur Lohara, Civil And Rev. District - Kabirdham Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Sahaspur Lohara, District Kabirdham Chhattisgarh.

---- Respondent

For applicants –Shri Dharmesh Shrivastava, Advocate.
For Respondent/State – Shri Lav Sharma, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/08/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No. 97/2016 registered at Police Station Sahaspur Lohara, District-Kabirdham (C.G.) for offence punishable under Sections 294, 323, 506, 427/34 of I.P.C. and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. As per the prosecution case, a report was made by Ramji Gandharv that on 19/05/2016 while he was going to the court, at that time the applicant Mahesh Pali stopped him in the way and abused him in the name of caste and assaulted, thereby offence has been committed.

3. Learned counsel for the applicants submits that initially the report was made against complainant Ramji under Section 279 and 337 of IPC which was registered as Crime No.96/2016 as the applicant was dashed by motorcycle which resulted into altercation and in order to avoid the same, false report has been made. He referred to annexure A-2 and would submit

that under these circumstances no offence is made out, therefore applicants may be granted benefit of anticipatory bail.

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

5. Perused the document annexure A-2 filed along with the petition wherein it shows that report was made against Ramji and case was registered under Section 279 and 337 of IPC bearing Crime No.96/2016. Subsequently, report was made by the complainant on 19/05/2016 at 10.30 and initial report was made by applicant Mahesh Pali at about 9.45. Taking into background of this case *prima facie* it appears that complainant dashed the applicant by his motorcycle which resulted into altercation. Considering background of this case, it appears *mens rea* is completely absent in this case. Taking into documents and the report, I am inclined to extend benefit of anticipatory bail to the applicants.

6. Accordingly, the anticipatory bail application is 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

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