

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 807 /2016

1. Vijay Kesharwani, S/o. Sunil Kesharwani, Aged About 26 Years, R/o. Village Devkar, Chauki Devkar, Tahsil Saja, District Bemetara, Chhattisgarh.
2. Sunil Kesharwani, S/o. Tulsi Ram Kesharwani, Aged About 50 Years, R/o. Village Devkar, Chauki Devkar, Tahsil Saja, District Bemetara, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through Chauki In-Charge Devkar, District Bemetara, Police Station Saja, District Bemetara, Chhattisgarh

---- Respondent

For Applicants	:	Mr. Suresh Kumar Verma, Advocate.
For Respondent	:	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/08/2016

1. Apprehending arrest in connection with Crime No.217/2016 registered at Police Station- Saja, District Bemetara (C.G.) for the offence punishable under Section 294, 506-B/34 of Indian Penal Code and 3(1)(10) of Schedule Caste & Schedule Tribe (Prevention of Atrocities) Act, 1989, the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was made by one Jagmohan Das that he has sold certain Grams and Soyabeen worth Rs.3,31,400/- to the present applicants who also deals in the business. Subsequently, when he demanded money, the applicants did not pay the same and stated that they will pay the money after sale of the land for which the police report was made and before the police a compromise was affected and initially Rs.50,000/- was paid and it was agreed that Rs.15,000/- per month will be paid for settlement of Rs.2,42,000/- and thereafter no amount was paid and

when he went to demand the amount on 21.04.2016 to the house of the applicants, he was abused in the name of caste.

3. Learned counsel for the applicants would submit that it is an out & out business transaction and the applicants have been falsely implicated in this case. He further submits that in order to recover the amount, false allegations have been attributed, therefore, the applicants may be enlarged on anticipatory bail as the other offences are bailable except the offence under Section 3(1)(x).
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary and the documents. Perusal of the FIR shows that there has been some business monetary transaction was going on in between the parties. Considering the nature of allegation, it appears that when the money was demanded some altercation took place. Taking into such fact, it appears that *mens rea* in this case prima facie do not appear to exist, therefore, considering the same, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended 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 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