

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1304 /2015

1. Sanjay Agrawal, S/o. Late Ramkishan Agrawal, Aged About 42 Years.
2. Satish Agrawal, S/o. Late Ramkishan Agrawal, Aged About 48 Years.

Both are R/o. Santrabadi, Sahu Near Aata Chakki, P.S. Mohannagar, Durg, Tahsil & Civil & Revenue Distt. Durg, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh, Through: Station House Officer, Police Station- Durg, District Durg, Chhattisgarh

---- Respondent

For Applicants : Mr. Awadh Tripathi, Advocate.

For Respondent : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14/01/2016

1. Apprehending arrest in connection with Crime No.828/2015 registered at Police Station- Durg, District Durg (C.G.) for the offence punishable under Section 420, 467, 468, 471, 120-B read-with Section 34 of IPC, 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 story, in brief, a complaint was lodged by the brother of the applicants namely Shiv Kumar Agrawal that the applicants after death of their mother in a mutation proceeding filed an application to get the house recorded in their name contending that they are the only legal heirs of Smt. Ganga Bai, who breathed

her last. It was alleged that the applicants have made a false statements and averments so that the property can be mutated in their name solely excluding the other brother and sister.

3. Learned counsel for the applicants submits that the applicants after death of Smt. Ganga Bai the mother of the complainant and applicants, the mutation proceeding was drawn and the house was recorded in name of the applicants as per the mutual agreement between the parties and since the shop went to the share of the other complainant and the name of the applicant No.2 was recorded in respect of the house and subsequently after the mutation, the same having been challenged by the other brother and sister, it was set aside. Therefore, virtually no offence has been committed and inter se it was the dispute of partition in between brother and sister and there has been a dispute existing between the parties as complainant and applicants are sharing the same house in the ground floor and first floor. Learned counsel for the applicants, therefore, submits that the applicants may be given the benefit of anticipatory bail.
4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perused the case diary and the statement. Perusal of the case diary and statement shows that the dispute arose out of a mutation proceeding of a house wherein the complainant and applicants are claiming their right. Taking into the nature of dispute and the statement and after perusal of the case diary, it appears that the dispute is of a family dispute against the right over the property in between the brothers, therefore, taking into totality of the facts and

circumstances of the case, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C.

7. Accordingly, the anticipatory bail application is allowed.
8. 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