

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 1329 of 2015

Rukmani Singh, W/o. Vinay Singh, Aged About 42 Years, Caste Gond, Ex-Sarpanch, R/o. Village Dhaneshpur, P.S. Surajpur, Tahsil Ramanujnagar, Distt. Surajpur, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh, Through the Station House Officer, Police Station Surajpur, Distt. Surajpur, Chhattisgarh.
2. Mohar Say, S/o. Ogar Say, Aged About 56 Years, Caste Gond, R/o. Village Dhaneshpur, P.S. Surajpur, Tahsil Ramanujnagar, Distt. Surajpur, Chhattisgarh (Complainant)

---- Respondent

And

MCRCA No. 1366 Of 2015

Rajendra Kumar, S/o. Rameshwar Ram, Aged About 40 Years, Caste Koir, Panchayat Sachiv, R/o. Village Dhaneshpur, Police Station Surajpur, Tahsil Ramanujnagar, Distt. Surajpur, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh, Through the Station House Officer, Police Station Surajpur, Distt. Surajpur, Chhattisgarh.
2. Mohar Say, S/o. Ogar Say, Aged About 56 Years, Caste Gond, R/o. Village Dhaneshpur, P.S. Surajpur, Tahsil Ramanujnagar, Distt. Surajpur, Chhattisgarh. (Complainant)

---- Respondent

For Applicants : Mr. Ashok K. Shukla, Advocate.

For Respondent No.1 : Mr. Anil S. Pandey, Govt. Advocate

For Respondent No.2 : Mr. S.P. Sahu, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18/03/2016

Both the anticipatory bail applications have been heard together and decided by this common order as they are arising out of the same complaint case and similar facts are involved.

1. Apprehending arrest in connection with Complaint Case No.1144/2015, pending before the Chief Judicial Magistrate, Surajpur, Police Station – Surajpur, District – Surajpur (C.G.) for the offence punishable under Section 420, 467, 468, 471 & 34 of Indian Penal Code, the applicants have preferred the applications under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a complaint was filed by Mohar Say, the complainant, that the applicant, Rukmani Singh, who is Sarpanch and Rajendra Kumar, who is Secretary of the Gram Panchayat- Dhaneshpur, District- Surajpur in a meeting of Gram Sabha, which was held to sort out the name of BPL candidates, deleted the name of the complainant, Mohar Say by declaring him to be dead; thereby the complainant was made dis-entitled from the benefits of the BPL Card. Consequently, a report was initially made to the SDO, wherein the applicants were held liable and on that basis, a complaint was proceeded before the Judicial Magistrate and the Judicial Magistrate has taken cognizance against the applicants; thereby the offence has been registered.
3. Learned counsel for the applicants submits that in the case in hand, it is a complete misrepresentation of facts before the Court below. He further submits that the applicants were not at all held to delete the name, as it was done by the committee. He would further submit that initially when the complaint was made to the SDO and the SDO having held the applicants liable, the appeal was filed before the Collector and the Collector by its order dated 02.07.2012 has categorically given a finding that the applicants were not in charge to make any correction in the BPL survey list and the power was vested with the committee. He further submits that the order of the Collector would show that even the deletion of the name was a

clerical mistake, which was directed to be corrected. The counsel therefore, would submit that on the basis of the complaint, the case was got registered on the basis of the order of the SDO, which stood repealed on the date and was already set-aside. Consequently, misrepresentation was made before the Court to put the criminal law into motion. He therefore, submits that the applicants may be extended the benefit of anticipatory bail.

4. Per contra, learned State counsel as well as counsel for the objector opposes the prayer for grant of anticipatory bail and they would submit that deliberately the name of the complainant was deleted for the reasons that he was deprived to continue the work of priest and that was the real reason to delete the name. They further submit that despite the complainant was alive, his name was deleted and therefore, the offence is deliberately committed.
5. Perused the case diary and the documents filed along-with the bail applications as also the order of the Collector dated 02.07.2012. The order of the Collector would show that when the SDO had found the applicants responsible for the act, the matter having been challenged, the Collector by its order dated 02.07.2012 came to a finding that actually the deletion and correction of name in the BPL survey list was made by a committee and exonerated the applicants from the charges. It was further held that even such deletion of name appears to be done because of clerical error and was directed to be corrected. Perusal of the order of the appellate Court would show that though the order of the Collector was dated 02.07.2012 while the complaint was filed till then such order, the order sheet dated 07.09.2013 would show that this was not placed before the Court and consequently, the complaint was made. Therefore, reading the documents collectively, I am inclined to

enlarge the present applicants on anticipatory bail, as the custodial interrogation of the applicants may not be required in this case.

6. Accordingly, the anticipatory bail applications are allowed.
7. 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 trial Court. 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