

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1146 of 2016

- Arun Jaiswal S/o Balram Jaiswal Aged About 38 Years R/o Village Beltara, R. K. Ratanpur, Tahsil & District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through District Magistrate, Bilaspur, District Bilaspur Chhattisgarh
2. Station House Officer Police Station Sarkanda, Tahsil & District Bilaspur Chhattisgarh

---- Respondent

&

MCRCA No. 1152 of 2016

1. Bajrang Singh Kashyap S/o Dhan Singh Kashyap Aged About 52 Years R/o Village Selar, Police Station Seepat, Tahsil Masturi, Civil & Revenue District Bilaspur, Chhattisgarh.
2. Pratap Singh Kashyap S/o Dhan Singh Kashyap Aged About 48 Years R/o Village Selar, Police Station Seepat, Tahsil Masturi, Civil & Revenue District Bilaspur, Chhattisgarh.
3. Vikram Singh S/o Pratap Singh Kashyap Aged About 20 Years R/o Village Selar, Police Station Seepat, Tahsil Masturi, Civil & Revenue District Bilaspur, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through District Magistrate, Bilaspur, District Bilaspur Chhattisgarh.
2. Station House Officer Police Station Sarkanda Bilaspur, Tahsil, Civil & Revenue District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant in M.Cr.C (A) : Mr. Devesh Chandra Verma, Advocate
No. 1146 of 2016.

For Applicants in M.Cr.C (A) : Mr. Ratnesh Kumar Agrawal Advocate
No. 1152 of 2016.

For Respondent/State : Mr. Anant Bajpai, Panel Lawyer.

For Objector : Mr. Atnu Ghosh, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****05-01-2017**

1. Since both the aforesaid bail petitions arise out of same Crime No.555 of 2016, they are heard analogously and are being disposed of by this common order.
2. Apprehending arrest in connection with Crime No. 555 of 2016, registered at Police Station Sarkanda,. Bilaspur, District Bilaspur (CG), for the offence punishable under Sections 294, 506, 323, 452, 34 of the IPC, the applicants have preferred the applications under Section 438 of the Cr.P.C, for grant of anticipatory bail.
3. As per case of the prosecution, a report was made by one Mahesh Kumar Tandani against the present applicants that on 20-8-2016 over taking possession of the land while the complainant was constructing the boundary wall, the applicants assaulted them by way of club and other means, as a result of which they sustained injuries and thereby the aforesaid offence was committed.
4. Learned counsel appearing for the applicants in M.Cr.C.A.No.1152 of 2016 would submit that initially the land belonged to one Jagdish for which a dispute arose and the land was sold to one Mandavi Devi and Prabha Devi Applicant No.1 Bajrang Singh Kashyap had purchased the land from Prabha Devi on 24-4-2001. Mandavi Devi and others on the basis of deed of correction have tried to encroach upon the land for which a civil suit was filed and eventually that traveled upto High Court wherein the High Court in Second Appeal has held that the predecessor Prabhat Devi cannot be dis-entitled in respect of the land as she had purchased the land by sale deed dated 15-5-1988 from Jagdish and deed of correction will not prevail over the earlier sale deed. Counsel referred to

the document dated 12-8-2016 and would submit that subsequently after the order of the High Court there was a dispute and the applicants asked for demarcation with all the documents of the High Court wherein demarcation was ordered for and date was fixed on 16-9-2016 as per Annexure A/6. Before that, the complainant tried to encroach upon the land by construction of a boundary wall, therefore, offence has been committed. He would further submit that considering all the facts and circumstances, the applicants may be extended the benefit of anticipatory bail.

5. Learned counsel appearing for applicant – Arjun Jaiswal in M.Cr.C (A) No. 1146 of 2016 would submit that the applicant has been falsely implicated in this case, he was not present on the spot and because of the fact that he happens to be a friend of applicant Bajrang Singh Kashyap, he has been falsely inculpated, therefore, the applicant may be extended the benefit of anticipatory bail.
6. Learned State counsel as well as counsel for the objector oppose the prayer for grant of anticipatory bail.
7. I have heard learned counsel for the parties, perused the case diary and the documents filed along with the bail petitions wherein order dated 28-1-2016 passed by the High Court in second appeal is enclosed which would show that the second appeal filed by Mandavi Devi was dismissed. The applicant Bajrang Singh Kashyap appears to have purchased the land from Prabha Devi with whom Mandavi Devi had a dispute over the land over identity.
8. Considering the documents, it appears that the complainant tried to over-reach of the order dated 28-1-2016 passed by the High Court in second appeal and tried to take over possession of the land. The dispute appears

to be civil in nature and evaluating the gravity of charges and role of the present applicants after meticulous examination of facts and the principles laid down by the Supreme Court in case of **Bhadresh Bipinbhai Sheth vs. State of Gujarat and another**, reported in (2016) 1 Supreme Case Cases 152 and back ground of the case and the evidence existing, I am of the considered opinion prima facie that it is a fit case where benefit of anticipatory bail can be extended to the applicants.

9. 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 the sum of Rs.25,000/- with one local surety 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

Raju

