

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1317 of 2016

1. Rambarat Patel S/o Late Radheshyam, Aged About 36 Years
(Wrongly Mentioned As Rambrat In Impugned Order) R/o
Kailashpur, Police Station Basantpur Balrampur, District
Balrampur Ramanujganj Chhattisgarh
2. Mahabalendra S/o Ramji Patel, Aged About 28 Years R/o
Kailashpur, Police Station Basantpur, Balrampur, District
Balrampur Ramanujganj Chhattisgarh
3. Shivparika Patel, S/o Rampati Patel, Aged About 28 Years R/o
Kailashpur, Police Station Basantpur, Balrampur, District
Balrampur Ramanujganj Chhattisgarh
4. Shivkant Patel S/o Rampati Patel, Aged About 23 Years R/o
Kailashpur, Police Station Basantpur, Balrampur, District
Balrampur Ramanujganj Chhattisgarh --- **Applicants**

Versus

- State of Chhattisgarh through Station House Officer, Police
Station Basantpur, District Balrampur Chhattisgarh **Respondent**

For the applicants : Mr. Pushpendra Kumar Patel, Adv.
For the State : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24.03.2017

1. Apprehending arrest in connection with Crime No. 31/2016 registered at Police Station Basantpur, Distt. Balrampur (C.G) for the offences punishable u/ss 147, 294, 341, 323, 307 of IPC, the applicants have filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, a report was made by one Krishna Kumar Patel on 24.3.2016 that while he was coming back along-with Shivilal Patel, they were intercepted by the present applicants and one Ram

Janam on the road and were assaulted. Ram Janam assaulted by way of club and the present applicants also assaulted them thereby the offence has been committed.

3. Learned counsel for the applicants would submit that the applicants have been falsely implicated; initially in the investigation which was carried out by the Police it was found that the applicants have not committed any offence and the charge sheet was filed against Ram Janam. Subsequently on an application filed by the complainant u/s 190 Cr.P.C., cognizance was taken by the trial Court wherein initially a bailable warrant was issued and subsequently the arrest warrant was issued. It is submitted that the applicants have been falsely implicated and earlier a detailed enquiry was conducted as per Annexures A-4 & A-5 which goes to show that the applicants are not involved in the said crime, therefore, the applicants may be enlarged on anticipatory bail.
4. Per contra, learned State Counsel opposes the prayer.
5. Perused the documents. It appears that Initially the enquiry was conducted by the Police which shows that the applicants were not involved, but subsequently on application of the complainant, cognizance was taken.
6. Taking into such facts and circumstances of the case particularly considering the fact that on a detailed enquiry conducted by the police, the applicants were exonerated, I am of the opinion that it is a fit case where the benefit of section 438 Cr.P.C., can be extended to the applicants.

7. Accordingly, the 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 officer arresting them or the concerned Investigating Officer. The applicants shall also abide by the following conditions :-

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 any police officer;
- (iii) that they shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE