

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 65 /2018

1. Praveen Singhal, S/o. Shri Ramesh Chandra Singhal, Aged About 43 Years.
 2. Smt. Pooja Singhal, W/o. Praveen Singhal, Aged About 38 Years.
 3. Smt. Reena Singhal, W/o. Naveen Singhal, Aged About 36 Years.
- All R/o.184, New Civic Center, Bhilai, Tahsil & District Durg Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh, Through the District Magistrate Durg, Chhattisgarh.
2. C.D.Dahate, S/o. Shri G. Munshi Dahate, Aged about 56 years, R/o. Sec. 10, Qtr. No.7A, Street No.1, Bhilai, District Durg, Chhattisgarh.

---- Respondents

For Applicants	:	Mr. Devershi Thakur, Advocate.
For Respondent No.1	:	Mr. S.K.Mishra, Panel Lawyer.
For Respondent No.2	:	Mr. D. Kushwaha, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01.05.2018

1. Apprehending arrest in connection with Complaint Case No.20/2017 pending before the J.M.F.C. Durg for the offence punishable under Sections 447, 379 of Indian Penal Code and Section 3(1)(e) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. Brief facts of the case is that a case was registered on a complaint filed by the respondent No.2 under Section 447, 379 of I.P.C. and Section 3(1)(e) of SC ST Act on the ground that one land bearing Khasra No.144/32 admeasuring 0.022 hectare, the applicants forcefully entered into the plot and took away boring which was implanted on the plot and having objected, the applicants have abused the complainant in the name of the caste; thereby the

offence has been committed. On such complaint, the notices have been issued.

3. Learned counsel for the applicants would submit that the document as has been placed on record would show that in the year 2009 itself, the complainant tried to encroach upon the land which belong to the applicants and further relied on the document to show that the demarcation was carried out in respect of the land bearing Khasra No.144 wherein it was shown that the complainant is not the owner, thereby the ownership was shown that of the applicants. He further submits that the civil suit is also pending in between the parties in respect of the same land and in order to create pressure the false allegations have been made and the entire complaint is frivolous, therefore, the applicants may be given the benefit of anticipatory bail.
4. Per contra, learned State counsel and counsel for the Complainant objected the same.
5. Perused the documents filed along with the anticipatory bail application. During submission it is not disputed by the respondent/ complainant that the civil suit in respect of possession of the same land is pending in between the parties. Perused the earlier report dated 15.11.2009 which was made by the applicants against the complainant that he has encroached upon the land and also the document of demarcation which is on record, which prima facie shows that demarcation was carried out in respect of the land and it was found that the land which complainant claims do not belong to him. Therefore, prima facie, it appears that the complaint has been filed to pressurise the applicants and prima facie it appears that civil dispute is pending between the parties for past some time. In view of such facts, taking into nature of allegations appears to have emanated to over reach a civil dispute by complainant, the bar of

Section 18 of the Schedule Caste & Scheduled Tribe (Prevention of Atrocities) Act, in my considered opinion will not be applicable. Further following the principles laid down in case of *Dr. Subhash Kashinath Mahajan v. State of Maharashtra* decided on 20.03.2018 in Criminal Appeal No.416 of 2018, 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 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.