

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1105 of 2017

1. Birjhu Sagar S/o Shri Lakhan Lal Sagar, Aged About 40 Years, R/o Village- Sundari (स), Police Station- Palari, District (Revenue and Civil) - Balodabazar-Bhatapara, Chhattisgarh, Chhattisgarh
2. Kamal Chaturvedi S/o Chunni Lal Chaturvedi, Aged About 42 Years, R/o Village- Sundari (स), Police Station- Palari, District (Revenue and Civil) - Balodabazar-Bhatapara, Chhattisgarh, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through- Police Station- Palari, District (Revenue and Civil) - Balodabazar-Bhatapara, Chhattisgarh, Chhattisgarh

---- Non-applicant

For Applicants – Shri Sumit Jhawar, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Smt. Smriti Shrivastava, Advocate for objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-02-2018

1. Apprehending arrest in connection with Crime No.265/2017, registered at Police Station – Palari, District Balodabazar-Bhatapara, Chhattisgarh for offence punishable under Section 436/34 of the IPC, the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated by the complainant in this case. Applicant No.1 is Sarpanch and Applicant No.2 is Upsarpanch of Gram Panchayat Sundari who had passed a resolution that Panchayat shall not allow selling liquor from various shops in the locality, because of which, the complainant was one of the persons affected. There is no eye-witness of the incident in which the *thela* of the complainant was set to fire by these applicants. The FIR has been lodged only on the basis of some hearsay information received by the complainant, hence no case is made out against these applicants. Therefore, it is prayed that the applicants may be benefited

with grant of anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application.

4. Learned counsel for the objector submits that the applicants are responsible for the loss caused to the complainant as his source of livelihood has been destroyed by fire. Hence, the applicants are not entitled for grant of anticipatory bail.

5. I have heard the learned counsel for the parties and perused the case diary.

6. Complainant Mansha Ram Dahriya lodged FIR on 28-07-2017 after a lapse of almost 7 months that his shop (*thela*) was burned on 25-12-2016, because of which all the things kept in the shop got burnt and the complainant has suffered loss. It is stated in the complaint that the applicants are the persons who had set fire to his shop. On that basis the offence has been registered against these applicants.

7. Considered on the submissions made and contents of the case diary.

8. On perusal of the case diary, it appears that there is no eye-witness to the incident and the FIR has been lodged after 7 months delay. Hence, taking into consideration all the facts and circumstances available in the case diary, I am of this view that the applicants should be benefited with grant of anticipatory bail in the present matter.

9. Accordingly, the anticipatory bail application is allowed. 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 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 to 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge