

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No.272 of 2018**

Rohit Baghel, S/o. Kartikram Baghel, Aged About 47 Years, R/o. Village Harinbhattha, O. P. Gidhpuri, P. S. Palari, District Baloda Bazar, Civil and Revenue District Baloda Bazar Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

----Applicant

**Versus**

State Of Chhattisgarh, Through P. S. Palari, Civil and Revenue District Baloda Bazar Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

**AND****M.CR.C.(A). No.495 of 2018**

William Johnson, S/o. Rohit Baghel, Aged About 24 Years, R/o. Village Harinbhattha, O.P. Gidhpuri, P.S. Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

----Applicant

**Versus**

State Of Chhattisgarh, Through P. S. Palari, Civil And Revenue District Baloda Bazar Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

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For Applicants : Mr. Aadil Minhaz, Advocate

For Respondent/State : Mr. Anupam Dubey, Dy. G.A.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board****21/06/2018**

- Both the bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
- Apprehending arrest in connection with Crime No.73/2018, registered at Police Station – Palari, District – Baloda Bazar -Bhatapara (C.G.) for offence punishable under Section 307/34 of

the Indian Penal Code, the applicants have preferred these applications for grant of anticipatory bail.

3. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case because of some previous enmity with the complainant party. In fact, the complainant party had been the aggressor as the spot of incident was in front of the house of the applicants, where, the complainant party arrived armed with rods and clubs and it was by exhorting the applicants, they have called them out from their house and have assaulted them. Applicant -William Johnson was severely injured, who has suffered grievous injury on his head and had to under go long treatment in the hospital. Applicant -Rohit Baghel has also suffered injuries and was referred to neurological department. Whereas, the injured of the complainant party has not suffered grievous injury. One FIR has been lodged by Sadhin Bai, wife of the applicant Rohit Baghel against the complainant and other and on that basis case has been investigated and charge-sheet has been filed before the Court, for which they are being prosecuted. Hence, it is prayed that an extra ordinary case is made out, therefore, they may be enlarged on anticipatory bail.
4. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that according to the eye-witness account present in the case diary, the applicants actively assaulted the complainant party and injured one Khubas, who has suffered injuries on his head and other parts of the body. Apart from that Rohit Baghel has history of 9 previous criminal cases between the year 1986 to 2016 and the applicant

William Johnson has also have criminal history of two cases, hence, the applicants are not entitled for grant of bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to the prosecution case, on the date of incident, it is alleged that the applicants were assaulting and beating Khubas with club and Axe. Complainant Lakhan and others on being informed arrived on the spot. On seeing the complainant and others, the assailants fled away from the spot. The FIR has been lodged by the Lakhan in this case.
7. Copy of the charge-sheet has been produced before the Court for perusal in Crime No.74/2018, in which complainant is Sadhin Bai, and also perused the documents that are submitted along with the application. According to these documents, applicant – Rohit has suffered injuries on his head and applicant William Johnson has suffered grievous injuries on his head for which he required to take long treatment. According to the copy of the FIR under Crime No.74/2018, it appears that both the cases are counter case. On the basis of this fact that spot of incident was in front of the house of the applicant, the submission made by the counsel for the applicant that complainant party had been aggressor is good ground of defence, hence, after considering the totality of the case and the facts and circumstances, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, both the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.

9. 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 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 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/-**  
**(Rajendra Chandra Singh Samant)**  
Judge