

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3349 of 2018

1. Idrish, Aged About 65 Years S/o Late Shri Ibrahim,
2. Hanif, Aged About 57 Years, S/o Late Shri Ibrahim,
3. Wahid, Aged About 51 Years, S/o Late Shri Ibrahim,

All are R/o- 3-A/282, F.C.I. Area, Ambala Fariya Nani Raman
Khadwar, Nani Daman (Khadwar Para) Tahsil Badi Daman (Nani
Raman) Union Territory State Daman Diu

---- Applicants

Versus

State Of Chhattisgarh Through- Station House Officer, Police
Station- Bagbahara, District- Mahasamund, Chhattisgarh.

---- Respondent

And

MCRC No. 3356 of 2018

Sabbir, Aged About 50 Years S/o Late Shri Ibrahim R/o- Avala
Faliya Kharwar D.M.C. 3/231 Jafar Complex, 4/2 Daman Diu At
Present Resides At- Odiya Para, Inside Of Dr. Koshariya, Main
Road Saraipali P.S.- Saraipali, District- Mahasamund, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer Police
Station- Bagbahara, District- Mahasamund, Chhattisgarh.

---Respondent

For applicants - Shri J.N. Nande, Advocate.
For Respondent/State –Smt. Madhunisha Singh, PL.
For objector- Shri Adil Minhaj, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/07/2018

1. The applicants have preferred these applications for grant of bail as they are arrested in connection with Crime No.212/2001 registered in Police Station Bagbahara Thana, District Mahasamund (C.G.) for offence punishable under sections 217, 218, 120-B, 420, 467, 468 & 471 read with 34 of IPC.
2. As per the prosecution case, a report was made by Fatima Begum

claiming to be wife of late Ibrahim. It is alleged that while the parties were litigating over the immovable properties, during mutation proceeding name of Idrish, Hanif, Wahid and Sabbir were recorded in respect of the immovable properties by leaving name of Fatima Begum the claimant/complainant whereby enquiry was ordered and thereafter FIR has been lodged.

3. Learned counsel for the applicants submits that initially applicants had filed anticipatory bail which was rejected in 2002, however due to mistake in the year 2015 again anticipatory bail was filed which was granted. Consequently, CRMP have been filed for cancellation of bail. Said order of anticipatory bail was cancelled on 8/01/2018 and thereafter the applicants Idrish, Hanif, Wahid have surrendered before the trial court on 5/04/2018 and applicant Sabbir surrendered on 16/04/2018 and since then they are in jail. It is further submitted that criminal case is pending and it may take long time, therefore at this stage the applicants may be released on bail.

4. Learned State counsel and counsel for the objector opposes the prayer for grant of bail and would submit that the applicants knowing fully well about rejection of the anticipatory bail in 2002 by playing fraud in 2015 obtained anticipatory bail, therefore they are not entitled for any further bail in this case.

5. Perused the record. Affidavit of the counsel Abdul Kadar Khairani is also perused. It has been stated that bonafide mistake was committed as despite the search of record of last 10 years no past record were traceable, as such submission was made. Record would show that in the year 2002 first anticipatory bail was rejected, however same was granted in 2015 after 13 years. Subsequently, CRMP having been filed for cancellation of the bail, this court by an order dated 8/01/2018 in CRMP

No.1206/2015 had cancelled the bail. Thereafter, the applicants have surrendered before the court on 5/04/2018 and on 16/04/2018. Taking into period of detention, nature of the rival claim, earlier bail already stood cancelled and the applicants Idrish, Hanif, Wahid are in jail since 5/04/2018 and applicant Sabbir is in jail since 16/04/2018, also taking into background of the case and proceeding of criminal case may take time, therefore this court is inclined to release the applicants on bail.

6. Accordingly, both the bail applications are allowed and it is directed that the applicants shall be released on each of them furnishing personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of concerned trial court for their regular appearance before it as and when directed.

Sd/-

(Goutam Bhaduri)

JUDGE