

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 654 of 2018

1. Pannalal S/o Late Shri Shobharam Chandrakar, Aged About 57 Years By Caste Kurmi, Occupation Agriculture, R/o Village Bemcha, P.S. And Tahsil Mahasamund, District Mahasamund Chhattisgarh.
2. Abhinay S/o Pannalal Chandrakar, Aged About 31 Years By Caste Kurmi, Occupation Govt. Servant (Patwari) R/o Village Bemcha, P.S. And Tahsil Mahasamund, District Mahasamund Chhattisgarh.
3. Aditya S/o Madan Lal (Wrongly Mentioned In The Impugned Order As A Named Pannalal) Aged About 27 Years By Caste Kurmi, Occupation Govt. Servant (Constable) R/o Village Bemcha, P.S. And Tahsil Mahasamund, District Mahasamund Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Mahasamund, District Mahasamund Chhattisgarh

---- Respondent

For applicants – Shri Awadh Tripathi, Advocate.
For Respondent/State – Smt. Madhunisha Singh, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

16/07/2018

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No. 209/2018 registered at Police Station Mahasamund, District Mahasamund (C.G.) for offence punishable under Sections 452, 294, 323, 506/34 of IPC.
2. As per the prosecution case, complainant Mohanlal Chandrakar had made a report that the applicants are also the relatives dispute took place in between them over partition of land. When it aggravated it is stated that the applicants entered into the house of the complainant and assaulted them by way of rod and wooden club, thereby offence is committed.
3. Learned counsel for the applicants submits that the incident is of

15/05/2018. Earlier the applicants have made report wherein the applicants were assaulted and as a self defence resistance was made which led to another report by the complainant. He submits that civil suit (Annexure A-3) was filed by Madanlal and Pannalal for partition of the land and in order to inculcate the applicants in false case allegation of 452 IPC is made out which is non-bailable. He further submits that earlier to that two reports were made, therefore the applicants may be granted benefit of anticipatory bail.

4. Learned State counsel opposes the argument and would submit that the applicants have assaulted the complainant.

5. Learned State counsel was directed to call for the case diary of another case wherein report was made by the present applicants. Case diary is perused wherein Abhinay Chandrakar made a report against the complainant herein that they were assaulted by the complainant by entering into the house. Considering the case diary of both the crimes and the fact inter-se relation in between the parties, the applicants also suffered injuries, taking into background of the case civil suit is pending, I am inclined to extend benefit of anticipatory bail 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 each of them executing a personal bond in sum of Rs.25,000/- with one local surety 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) 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/-
(Goutam Bhaduri)
JUDGE