NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 868 of 2018

1. Mahanti Bai W/o Bodha Ram Aged About 40 Years Caste Nagwanshi , R/o Village - Ghoghar Basen, Police Station Kansabel District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
2. Mohd. Riyasat Kadri S/o Mohd. Riyaz Aged About 46 Years Caste - Muslim, R/o Village - Bataikela, Police Station - Kansabel, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
3. Mohd. Naseem Ansari S/o Mohd. Rahman Aged About 30 Years Caste Muslim, R/o Village Lohardaga, Police Station - Lohardaga, District Lohardaga (Jharkhand) At Present Resident Of Village - Bataikela, Police Station - Kansabel, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station - Tapkara, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh.

---- Respondent

For the Applicants : Shri J.K. Saxena, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

28.08.2018

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicants who are apprehending arrest in connection with Crime No. 7 of 2016, registered at Police Station – Tapkara, District – Jashpur, Chhattisgarh for the offence punishable under Section 387, 506 and 507 of the Indian Penal Code.

3. It is submitted by counsel for the applicants that the applicants have been falsely implicated in this case by the complainant. The fact is that applicant No.1 – Mahanti Bai had lended an amount of Rs.5,00,000/- to complainant – Mahaveer Das, who was not repaying the borrowed amount despite several demands made by applicant No.1, then she asked help of applicants No.2 and 3 to get the amount recovered from the complainant. Because of which, a totally false FIR has been lodged against the applicants without there being any evidence in this respect. It is also submitted that applicant No.1 has presented herself before the Investigation Officer which is reflected from the case-diary. Hence, no case is made out against the applicants and it is prayed that the applicants be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the arrest and detention of the applicants is required for the purpose of investigation. Hence, the application be rejected.

5. Heard counsel for both the parties and perused the case diary.

6. Complainant – Mahaveer Das filed a written complaint on 3.2.2016 alleging that some unknown persons made a phone call on his mobile number in which the caller identified himself as a Naxalite and told him that as he has made a complaint against the applicants, the complainant should pay him Rs.15,00,000/- otherwise he will kill him. In the investigation conducted so far, the mobile number from which the phone call has been

made was traced but the caller has not been identified so far.

7. Considered the material present in the case-diary. It appears that applicant No.1 presented herself before the Investigation Officer and given her statement which confirms her stand about the lending of money to the complainant.

8. After due consideration of all the facts and circumstances and looking to the fact that investigation in this case is pending for more than two years, I am of the considered view that the present is a fit case where the applicants should be benefited with grant of anticipatory bail.

9. 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 executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. They 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 them 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.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi