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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1172 of 2018

- Rakesh Ratrey S/o Shri Sitaram Ratrey, Aged About 30 Years, R/o Village Dhimrapur, P.S. Kotwali, District - Raigarh, Chhattisgarh, Civil & Revenue District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Officer In-Charge, Ajak, Raigarh, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

MCRCA No. 1197 of 2018

- Deep Lal Nirala S/o Barsati Lal, Aged About 30 Years, R/o Maudahapara, Jute Mill Raigarh, Tahsil and District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Tamnar, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 6517 of 2018

- Sheshdeo Sahu S/o Shri Vibakshi Ram Sahu, Aged About 41 Years, R/o- Village- Padigaon, Tahsil And P.S. Tamnar, District- Raigarh, At Present Transport Nagar Sarangarh Bus Stand, Ambedkar Awas, Raigarh, Civil And Revenue District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh Through- District Magistrate, Raigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 6571 of 2018

- Manoj Tamta S/o Girish Lal Tamta Aged About 45 Years R/o- Chhote Atarmuda, Near Gurudron School, Police Station Chakradharnagar, Tahsil And District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, P.S. Tamnar, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 7307 of 2018

- Banty Singh S/o Shubhash Singh Rajput Aged About 33 Years R/o Jute Mill Labour Colony, Jutemill Raigarh, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Tamnar, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 7317 of 2018

- Rajesh Singh S/o Shubhash Singh Rajput, Aged About 39 Years, R/o Jute Mill Labour Colony , Jutemill Raigarh, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Tamnar, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

For Applicant – Shri Mateen Siddqui, Advocate (in MCRC No.1172/2018), Shri Manoj K.Sinha, Advocate (in MCRC No.6517/2018), Shri Ashish Gupta, Advocate (in MCRC No.1197/2018, MCRC No.7317/2018, MCRC No.7307/2018 and MCRC No.6571/2018).

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-10-2018

1. As these six applications arise out of the same crime number, i.e., Crime No.215/2017 registered at P.S. Tamnar, District Raigarh, Chhattisgarh for the offence under Section 147, 148, 149, 294, 323, 506, 307, 34 of the IPC and Section 3(1), द, घ, 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they are being decided by this common order.

2. MCRC No.1197/2018 has been filed by applicant Deep Lal Nirala and MCRC No.1172/2018 has been filed by applicant Rakesh Ratrey under Section 438 of the Cr.P.C. for grant of anticipatory bail as they are apprehending their arrest in aforesaid crime number and offence.

As applicant Sheshdeo Sahu (applicant in MCRC No.6517/2018) has been arrested on 12-05-2018, applicant Rajesh Singh (applicant in MCRC No.7317/2018 has been arrested on 01-09-2018, applicant Banty Singh (applicant in MCRC No.7307/2018) has been arrested on 31-08-2018 and applicant Manoj Tamta (applicant in MCRC No.6571/2018) has been arrested on 15-08-2018 in connection with aforesaid crime number and offence, they have filed aforesaid applications under Section 439 of the Cr.P.C. for their release on regular bail.

3. At the outset, learned counsel for applicant Rakesh Ratrey (applicant in MCRC No.1172/2018) submits that in the application, MCRC No.1172/2018, Police Station has been wrongly mentioned as AJAK, Raigarh, District Raigarh (C.G.), whereas, the police station where the offence has registered is Police Station – Tamnar, Raigarh, District Raigarh (C.G.).

4. It is submitted on behalf of the applicants Rakesh Ratrey and Deep Lal Nirala that both these applicants have been falsely implicated in this case. Their name was not reflected in the FIR that was lodged on 01-11-2017 by the complainant, at a subsequent stage after passing about 6 to 7 months. The name of these applicants have been added on the basis of improved statement given by some witnesses, hence, no case is made out against these applicants. Hence, it is prayed that both these applicants may be benefited with grant of anticipatory bail.

5. Learned counsel for the applicants in MCRC No.6517/2018, MCRC No.7317/2018, MCRC No.7307/2018 and MCRC No.6571/2018 submit that similarly placed co-accused persons have been granted bail by this Court on the basis of observation made by this Court in MCRC No.5085/2018 vide order dated 08-08-2018. These applicants are also similarly placed, hence, it is prayed that the applicants in these applications may be granted regular bail.

6. Learned counsel for the State/non-applicant opposes the applications

submitting that there ample evidence on record of the prosecution case to make out prima facie case against the applicants, hence, none of the applicants is entitled for grant of regular or anticipatory bail.

7. Heard learned counsel for the parties and perused the case diary.

8. The prosecution case, in brief, is this, that applicant Sheshdeo Sahu (applicant in MCRC No.6517/2018) had succeeded in a civil suit against complainant Baratu Rathiya and others with respect to some dispute of landed property. Subsequent to that a dispute arose between the complainant party and party of the applicants and co-accused person, in which, it is alleged that the accused persons formed unlawful assembly armed with deadly weapons and then abused, threatened, assaulted and injured the complainant and other victims in this case.

9. According to the statement made, a counter case has also been registered against the complainant and others which is registered as 216/2017 although for lesser offence, but that goes to show that it was a case of fight between both the parties. Apart from that, name of applicants Rakesh Ratrey and Deep Lal Nirala has appeared in the statement recorded under Section 161 of the Cr.P.C. on 27-07-2018 after passing of more than 1 ½ years from the date of incident. Hence, on this ground, it appears that applicants Rakesh Ratrey (applicant in MCRC No.1172/2018) and applicant Deep Lal Nirala (applicant in MCRC No.1197/2018) are entitled for grant of anticipatory bail. On the basis of grant of bail to the co-accused persons who are similarly placed the applicants in MCRC No.6517/2018, MCRC No.7317/2018, MCRC No.7307/2018 and MCRC No.6571/2018 are also entitled for grant of regular bail.

10. Consequently, the anticipatory bail applications (MCRC No.1172/2018 and MCRC No.1197/2018) filed by applicants Rakesh Ratrey and Deep Lal Nirala are allowed. It is directed that in the event of arrest of applicants

Rakesh Ratrey and Deep Lal Nirala 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. These 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.

11. Also, MCRC No.6517/2018, MCRC No.7317/2018, MCRC No.7307/2018 and MCRC No.6571/2018 filed under Section 439 of the Cr.P.C. for grant of regular bail by applicants Sheshdeo Sahu, Rajesh Singh, Banty Singh and Manoj Tamta are allowed. It is directed that these applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

12. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge