

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 482 of 2018**

1. Malikram Nishad, S/o. Late Kubhkaran Nishad, Aged About 60 Years,
2. Rukmani Nishad, W/o. Shri Late Ramchandra Nishad, Aged About 35 Years,
Both R/o Paithar, P.S. -Mulmula, District -Janjgir- Champa, Chhattisgarh.
3. Tulsi Nishad, S/o. Shri Hinchharam Nishad, Aged About 40 Years, R/o. Village Pharhada, P.S. Akaltara, District -Janjgir -Cahampa, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through : Police Station -Torwa, District -Bilaspur, Chhattisgarh.

---- Respondent

AND**M.CR.C.(A) No. 31 of 2018**

1. Champa Bai Nishad, W/o. Bhagat Nishad, Aged About 34 Years
2. Bhagat Singh Nishad, Son Of Shri Malikram Nishad, Aged About 36 Years,
Both R/o. Domuhani, P. S. Torwa, District -Bilaspur, Chhattisgarh.
3. Ahilya Bai, W/o. Shri Tulsi Nishad, Aged About 40 Years, R/o. Sadakpara, Pharhada, P. S. Akaltara, District Janjgir- Champa, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through : Police Station- Torwa, District -Bilaspur, Chhattisgarh.

---- Respondent

For Applicants : Mr. Dharendra Pandey, Advocate

For Respondent/State : Ms. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/03/2018

1. Since the above regular bail application and anticipatory bail application arise out of the same crime number, they are being heard and disposed of by this common order.
2. The applicants – in MCRC(A) No. 31 of 2018 have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.417/2017 registered at Police Station- Torwa, Bilaspur, District – Bilspur (C.G.), for the offence punishable under Sections 306, 34 of the Indian Penal Code.
3. The bail application of applicants in MCRC No.482 of 2018 is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to them as they have been arrested in connection with Crime No.417/2017, registered at Police- Station Torwa, Bilaspur District– Bilaspur (C.G.) for the offence punishable under Sections 306, 34 of Indian Penal Code.
4. Learned counsel for the applicants submits, that applicants are innocent and have been falsely implicated in the crime in question. The only basis of the prosecution against them is the suicidal letter left by the deceased, in which it is stated that the applicants have threatened him to cause his death, because of which, he has committed suicide. No case is made out for abetment of suicide as defined in Section 107 of Indian Penal Code. Therefore, it is prayed that the applicants in M.Cr.C. No.482/2018 may be enlarged on regular bail and the applicants in M.Cr.C.(A) 31/2018 be granted anticipatory bail.
5. Learned counsel for the respondent/State opposes the applications and submissions made in this respect. It is submitted that there is

sufficient evidence in this case, against the applicants, hence, applicants are not entitled for grant of regular bail or anticipatory bail.

6. I have heard the learned counsel for both the parties and perused the case diary.
7. The case of the prosecution in brief is that deceased Ramchand Nishad was the husband of Rukmani Nishad (the applicant No.2 in M.Cr.C. No.482/2018). There had been a dispute, because the deceased had been insisting for partition between the applicants and was asking for share of his wife – Rukmani Nishad. Prior to the date of incident, the applicants and the deceased had some exchange of words and subsequent to that on the date of incident on 23.10.2017, the deceased committed suicide by jumping before a train. In the suicidal note found in the inquest procedure it shows that because of dispute, all the applicants had threatened the deceased to cause his death, because of which, he felt compelled to commit suicide.
8. Considered the submissions made and the contents of the case diary. Considering the entire material present in the case diary, the nature of allegation made against these applicants is also taken into consideration, taking into consideration the facts and circumstances of the case, I am of this view that applicants - in MCRC No.482 of 2018, deserve to be enlarged on regular bail and applicants in MCRC(A) No. 31 of 2018 also deserve to be enlarged on anticipatory bail.
9. Accordingly, the anticipatory bail application of applicants in MCRC(A) No.31 of 2018 is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offences, they shall be released on bail by the officer arresting them on their executing a

personal bond in the 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.

10. Likewise, the regular bail application bearing M.Cr.C. No.482/2018 filed under Section 439 of Cr.P.C. is allowed. It is directed that applicants in MCRC No.482 of 2018 shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the trial Court concerned, for their appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge