NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 1448 of 2018

1. Virendra Kumar Sahu S/o Late Ramanand Sahu Aged About 59 Years R/o H.No.- 2-A , Avenue B, Sector- 7, Bhilai, Bhilai Nagar, Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Smt. Savitri Devi W/o Virendra Kumar Sahu Aged About 53 Years R/o H.No.- 2-A , Avenue B, Sector- 7, Bhilai, Bhilai Nagar, Durg, Chhattisgarh., District : Durg, Chhattisgarh
3. Smt. Usha Devi W/o Jai Kumar Aged About 43 Years R/o H.No.- 2-A , Avenue B, Sector- 7, Bhilai, Bhilai Nagar, Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicants

Versus

1. State Of Chhattisgarh Through Police Station- Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. State Of Uttar Pradesh Through Police Inspector- Dhumanganj, Police Station- Dhumanganj, Allahabad, Uttar Pradesh., District : Allahabad, Uttar Pradesh

---- Respondents

For the Applicants : Shri Prasoon Agrawal, Advocate.
For the Respondent/State : Shri Ashish Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

30.10.2018

1. Heard on I.A. No. 1 of 2018, an application for grant of ad-interim bail in the form of transit anticipatory bail to the applicants.

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. 1165 of 2018, registered at Police Station – Dhumanganj, Allahabad (Uttar Pradesh) for the offence punishable under Sections 147, 148, 149, 419, 420, 342, 496 and 506 of the Indian Penal Code.

3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. As the applicants intend to present themselves before the authority and file an appropriate application before the concerned Court for relief, till then, a temporary transit anticipatory bail be granted to the applicants.

Reliance has been placed by counsel for the applicants on the judgments of High Court of Madhya Pradesh in **Kailashpati Kedia vs. State of Maharashtra and Others** reported in **1996 MPLJ 847** and **Sachindra Mahawar and Others vs. State of Madhya Pradesh and Another** reported in **1999 SCC Online MP 406**.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the apprehension of the arrest of the applicants is in connection with the offence registered in the State of Uttar Pradesh whereas, according to the legal amendment of the State of Uttar Pradesh, the provision under Section 438 of the Cr.P.C. has been suspended. Apart from that, there is no apprehension of the arrest of the applicants within this State. Hence, the application be rejected.

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

6. Considered the submissions made by counsel for the applicants in this respect. Although, the case law cited provides that a transit anticipatory bail for a limited period can be granted to the applicants' concerned to allow them sometime to approach the proper Court and file an application seeking relief. In this case, it is clearly visible that the applicants have no apprehension of

arrest within this State and in case, they are arrested by the Uttar Pradesh police, furnishing of any bail bonds on the basis of any transit bail granted by this Court will be directly against the law in force in the State of Uttar Pradesh, for the reason that the provisions under Section 438 of the Cr.P.C. is suspended in that State. Hence, for these reasons, I do not find any reason to grant any transit anticipatory bail to the applicants.

7. Accordingly, I.A. No. 1 of 2018 is rejected.

8. In view of above, M.Cr.C.(A) filed by the applicants also disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi