

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1606 of 2018**

1. Vidyadhar S/o Late Shri Purnachand Patel Aged About 40 Years R/o Village Gourdi, Police Station Dongripali ,tahsil Baramkela ,district Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
2. Ramkrishna S/o Late Shri Girdhari Patel Aged About 39 Years R/o Village Gourdi, Police Station Dongripali ,tahsil Baramkela ,district Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
3. Chudamani S/o Late Shri Gangadhar Patel Aged About 55 Years R/o Village Gourdi, Police Station Dongripali ,tahsil Baramkela ,district Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
4. Gajpati S/o Shri Chudamani Patel Aged About 25 Years (Wrongly Mentioned As Ganmati In The Certified Copy)r/o Village Gourdi, Police Station Dongripali ,tahsil Baramkela ,district Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicants**Versus**

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

---- Respondent

For the Applicants : Shri T.K. Jha, Advocate.
 For the Respondent/State : Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.12.2018**

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. 37 of 2018, registered at Police Station – Dongripali, District Raigarh, Chhattisgarh for the offence punishable under Sections 294, 323, 506/ 34, 325 and 326 of the Indian Penal Code.

3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. On account of earlier land dispute between the applicants and the complainant party, applicant No.1 – Vidyadhar has lodged one FIR No. 38 of 2018 against the complainant party in which incident, the wives of applicants No.1 and 2 – Vidyadhar and Ramkrishna have received injuries, hence, it was a case of free fight. The offence under Section 326 of the IPC has been added later on to increase the gravity of the offence alleged to have been committed by these applicants which is without any substance. Hence, 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 looking to the statement given by the witnesses and the report of the injuries on the injured person, no case is made out for grant of anticipatory bail to the applicants.

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

6. The case against the applicants is that on the date of incident complainant – Dayanidhi Patel alongwith others was present on the field in his possession for cultivation purposes, then the applicants arrived on the spot using abusive words, threatening them and then assault was made upon the complainant and others with spade and iron rods because of which, Dayanidhi Patel has suffered incised wound on his head. Injured – Prahlad Patel suffered one fracture on the proximal phalanx of left hand regarding which FIR has been lodged. On perusal of the case-diary, it appears that the

injury caused to Dayanidhi Patel has been reported to be simple in nature whereas, the injury caused to Prahlad Patel was grievous bony injury but the medical report reflects that the injury has been caused by hard and blunt object. Hence, the question raised on the registration of offence under Section 326 of the IPC has some substance. After due consideration of the facts of this case and the counter case, I feel inclined to grant anticipatory bail to the applicants.

8. 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