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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1603 of 2018**

1. Anjor Das Tandan S/o Shri Birbal Aged About 60 Years R/o Village Khudiyadih, Post And P. S. Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Umend Tandan S/o Anjor Das Aged About 40 Years R/o Village Khudiyadih, Post And P. S. Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Pusaiya Bai Tandan W/o Bajarha Tandan Aged About 42 Years R/o Village Khudiyadih, Post And P. S. Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Police Station Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 9286 Of 2018**

1. Bajarha S/o Aanjor Das Aged About 40 Years R/o Village- Khudiyadih, Police Station- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Suraj S/o Bajarha Tandan Aged About 18 Years R/o Village- Khudiyadih, Police Station- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Baishakhiya W/o Aanjor Das Tandan Aged About 60 Years R/o Village- Khudiyadih, Police Station- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicants**Vs**

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

---- Respondent

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

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

Heard.

1. Both these applications are being decided by this common order as they arise from the similar incident. M.Cr.C.(A) No. 1603 of 2018 is the first application under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.290 of 2018, registered at Police Station – Takhatpur, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 147, 148, 149, 307 and 302 of the Indian Penal Code. M.Cr.C. No. 9286 of 2018 is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicants for grant of regular bail to them, who have been arrested in connection with the aforesaid offence.

2. At the outset, learned counsel for the applicants seeks permission to withdraw the bail application of applicants No.1 and 2 – Anjor Das Tandan and Umend Tandan in M.Cr.C.(A) No. 1603 of 2018 and applicants No.1 and 2 – Bajarha and Suraj in M.Cr.C. No. 9286 of 2018.

3. Accordingly, the bail applications of applicants No.1 and 2 – Anjor Das Tandan and Umend Tandan in M.Cr.C.(A) No. 1603 of 2018 and applicants No.1 and 2 – Bajarha and Suraj in M.Cr.C. No. 9286 of 2018 are dismissed as not pressed.

4. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. It is submitted on behalf of applicant No.3 – Pusaiya Bai Tandan in M.Cr.C.(A) No. 1603 of 2018, she was although present on the spot but she was not acted in any manner. Neither she was armed with any deadly weapon nor she had any intention to cause death of any person. Similarly, it is submitted on behalf of applicant No.3 –

Baishakhiya in M.Cr.C. No. 9286 of 2018 that she was though present on the spot but not armed with any deadly weapon which itself shows that these applicants were not part of the unlawful assembly. Hence, for these reasons, the applicants are entitled for grant of regular/ anticipatory bail.

5. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that there is named FIR against these applicants about having actively participated in the commission of offence which has resulted in the death of a person. Hence, for these reasons, none of the applicants deserve to be enlarged on regular/ anticipatory bail.

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

7. It is alleged that on 21.7.2018, these applicants alongwith the co-accused persons went to the house of complainant – Sammy Kapoor and quarreled with him because of some dispute. At the same time, these applicants alongwith co-accused persons made an assault on deceased – Dasharath Baghel and others with clubs, hands and fists. According to the evidence present, it appears that the assault of club was made by co-accused – Bajarha Khunte and Anjor Das Tandan. The injury caused to Dashrath Baghel has resulted in his death which took place on 7.9.2018. Hence, the FIR has been lodged.

8. Considered the material present in the case-diary. Taking into consideration the fact that applicant No.3 – Pusaiya Bai Tandan in M.Cr.C. (A) No. 1603 of 2018 and applicant No.3 – Baishakhiya in M.Cr.C. No. 9286

of 2018 both are women and though there is statement of participation but they were not armed with any deadly weapon, hence, both the applicants deserve to be released on regular and anticipatory bail.

9. Accordingly, the bail applications filed under Sections 439 and 438 of the Cr.P.C. are allowed in part.

10. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of applicant No.3 – Pusaiya Bai Tandan in M.Cr.C.(A) No. 1603 of 2018 in connection with the aforesaid offence, she shall be released on bail by the Officer arresting her 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. She shall also abide by the following conditions:

- '(i) that the applicant shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.'

11. It is directed that applicant No.3 – Baishakhiya in M.Cr.C. No. 9286 of 2018 shall be released on bail on furnishing a personal bond in the sum of

Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi