

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 92 of 2019**

1. Rakesh S/o Late Ram Badai Aged About 40 Years R/o Village Jhagrakhant ,police Station Jhagrakhand District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Rina W/o Rakesh Aged About 30 Years R/o Village Jhagrakhant ,police Station Jhagrakhand District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Police Station Jhagrakahand Tahsil Baikunthpur District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh.

---- Respondent

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.02.2019**

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. 123 of 2018, registered at Police Station – Jhagrakhand, District Koriya, Chhattisgarh for the offence punishable under Sections 294, 506, 323, 147 read with Section 34 of the Indian Penal Code and Section 3(1)(da)(dha), 3(2)(v-ka) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. The fact is that there had been free-fight between the complainant party and the applicant party. The applicants have also lodged FIR against the complainant and others which has been registered as Crime No. 124 of 2018 for the offences under Sections 294, 323/ 34 and 506 of the IPC which is a counter case of the same incident. Apart from the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, rest of the offences are bailable, 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.

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

6. According to the FIR, on the date of incident, the applicants and other co-accused persons formed an unlawful assembly and then by using abusive words, threatened, assaulted and caused injuries to one Kamal, who is husband of complainant – Pramila. Later on, in the statement recorded under Section 161 of the Cr.P.C., it has appeared that the complainant belongs to Scheduled Caste, therefore, the offences of Atrocities Act have also been added.

7. Considering all the material present in the case-diary and the fact that the FIR itself has not mentioned the commission of offence under the Atrocities Act, I feel inclined to grant anticipatory bail to the applicants.

8. Accordingly, the anticipatory bail applications are 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