

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 126 of 2019

1. Mohd. Iklak S/o Iqbal Hussain, aged about 40 Years, R/o Village Kelhari, Police Station Kelhari, District Korea Chhattisgarh.
2. Mohd. Bilal, S/o Iqbal Hussain, aged about 31 Years, R/o Village Kelhari, Police Station Kelhari, District-Korea Chhattisgarh.
3. Jawwad S/o Iqbal Hussain, aged about 33 Years, R/o Village Kelhari, Police Station-Kelhari, District-Korea Chhattisgarh.
4. Mohd. Nisar S/o Iqbal Hussain Aged About 29 Years R/o Village Kelhari, Police Station Kelhari, District Korea Chhattisgarh.
5. Iqbal Hussain S/o Amjad Ali Aged About 72 Years R/o Village Kelhari, Police Station Kelhari, District Korea Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through The Station House Officer, Police Of Police Station Ajak Baikunthpur, District-Korea Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Anil Gulati, Advocate.
For Respondent/State	:	Mrs. Smita Jha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

22/02/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.09/2018 registered at Police Station - AJAK, Baikunthpur, District –

Koriya (C.G.), for the offence punishable under Sections 294, 506, 323, 147 of the Indian Penal Code & Section 3(1)(द)(घ) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989')

2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. No case is made out against these applicants regarding the commission of offence under the provisions of the Act of 1989. Rest of the offences registered against the applicants are bailable in nature. Similarly placed co-accused Farzam Hussain has been granted anticipatory bail by this Court. In these circumstances, it is prayed that these applicants may also be granted anticipatory bail.
3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that clear case is made out against these applicants for the commission of offence under the provisions of the Act of 1989 and therefore the application under Section 438 of CrPC is not maintainable and the same is liable to be rejected as such.
4. Heard both the parties and perused the case diary.
5. As alleged, that these applicants & co-accused persons had a dispute with the complainant as the complainant has clearly stated that his land was being encroached by these applicants & co-accused persons and when he objected to the said act, the applicants and other co-accused persons abused, threatened, assaulted & injured the complainant. There is also allegation that the complainant, a member Scheduled Tribe community, has been insulted on the basis of his social status. Hence, this case.

6. Considered on the entire material present in the case diary, as it appears that there is a land dispute between applicants & co-accused with the complainant and further considering that apart from the offence under the Act of 1989, other offences are bailable in nature, I am of this opinion that applicants deserve to be benefited with grant of anticipatory bail.
7. 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 their executing a personal bond in the sum of Rs.25,000/- each with one surety 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 them/their 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 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

Nisha