

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 174 of 2019

1. Smt. Gomti Shukla W/o Shri Sitaram Shukla, Aged About 70 Years, R/o Village and Post Bhurkoni, P.S. Tendukona, Tehsil Pithora, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh
2. Satish Kumar Shukla S/o Shri Sitaram Shukla, Aged About 43 Years, R/o Village and Post Bhurkoni, P.S. Tendukona, Tehsil Pithora, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh
3. Pankaj Shukla S/o Shri Sitaram Shukla, Aged About 38 Years, R/o Village And Post Bhurkoni, P.S. Tendukona, Tehsil Pithora, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through P.S. Tendukona, Tehsil Pithora, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicant – Shri Surfaraj Khan, Advocate.

For Non-applicant/State – Shri Mahesh Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-02-2019

1. Apprehending arrest in connection with Crime No.22/2018, registered at Police Station – Tendukona, District Mahasamund, Chhattisgarh for offence punishable under Section 447/34 of the IPC and Section 3(1), (iv), (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act'), the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. There is simply a land dispute between the applicants and complainant Sumitra Bhoi, because of which in a arm twisting manner this FIR has been lodged making false allegations against these applicants. It is further submitted that complainant Sumitra Bhoi who claims to be a member of the Sanwara caste of Scheduled Tribe, is not recognized as Scheduled Tribe in the Schedule of this State. This matter was

considered by this Court in W.P.(PIL) No.13/2013, wherein, in the order passed by this Court dated 03-04-2013 it has been clearly observed that “Sanwara” and “Saunra” community are not in the list of Scheduled Tribes of State of C.G. Apart from this, applicant No.2 has preferred WPCR No.71/2018, in which, interim relief has been granted by this Court that no coercive steps shall be taken against the applicant during investigation of the case. Therefore, it is prayed that these applicants may be granted anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the Schedule of Tribal communities mentioned in the list of State of C.G. clearly shows at Serial No.41 Sawar and Sawara as Scheduled Tribe. Therefore, the offence under the provisions of the SC/ST Act is clearly made out. For this reason, this application under Section 438 of the Cr.P.C. cannot be entertained.

4. Heard learned counsel for the parties and perused the case diary.

5. In the FIR lodged by complainant Sumitra Bhoi she has alleged that these applicants are encroaching upon the land belonging to her and are raising construction on the same. Hence, this case.

6. Considered on all the material present in the case diary and also perused all the documents filed along with the application. A dispute has been raised regarding caste of the complainant by the applicants side, according to which, it is yet to be confirmed whether the complainant is a member of Scheduled Tribes or not. Therefore, after due consideration, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These

applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 him/her from disclosing such facts to the Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge