

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 364 of 2019**

1. Zakir Ali S/o Sayyed Azhar Ali Aged About 32 Years R/o Ward No. 10, Mission Compound Baihar, Police Station And Tahsil- Baihar, District- Balaghat, Madhya Pradesh., District : Balaghat, Madhya Pradesh
2. Abu Azhar S/o Abubakar Azmi Aged About 29 Years R/o Village- Ward No. 07, Kunda, Police Station- Kunda, Tahsil- Pandariya, District- Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Kawardha, District- Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh.

---- Respondent

For the Applicants : Shri R. Pradhan, Advocate.
 For the Respondent/State : Shri I. Lakra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****18.03.2019**

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. 50 of 2018, registered at Police Station – Kawardha, District Kabirdham, Chhattisgarh for the offence punishable under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code.

3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. No case is made out against the applicants on the basis of the material placed before the Court by the prosecution. Applicant No.1 – Zakir Ali is the real brother of complainant – Sajida Parveen. Earlier, the complainant claimed the property on the basis of one will purported to be executed by Zahida Begam, who was mother of applicant No.1 and the complainant both. Her application for mutation of property has been rejected by the Revenue Court and subsequent to that, a false allegation has been made in FIR that this applicant is not her real brother and he has on the basis of forged papers got his name entered in the family property, which is not true in any sense. Applicant No.2 – Abu Azhar has been implicated in this case because he had assisted applicant No.1 – Zakir Ali in obtaining death certificate of his mother, Zahida Begam. 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.

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

6. According to the FIR lodged, it is alleged that this applicant No.1 – Zakir Ali is not the son of Sayyed Azhar Ali and Zahida Begum and has obtained the death certificate of Zahida Begam fraudulently impersonating himself as her son and has got family property mutated in his name therefore, he has committed the offence of fraud and cheating.

7. Considered the entire material present in the case-diary. The applicant has filed the documents alongwith the mark-sheets of school and Aadhar Card and also the order of compassionate appointment in which it is shown that he is the son of Sayyed Azhar Ali and also reflects that Zahida Begam is mother of applicant No.1 -Zakir Ali. Hence, after due consideration of all the aspects in this case, I am of the considered view that the present is a fit case where the applicants should be benefited with grant of anticipatory bail.

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

Nimmi