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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 359 of 2019**

1. Nilesh Kumar S/o Manoharlal Gidwani Aged About 32 Years R/o Bhakt Kawarram Nagar, Ward No. 05, Sindhi Colony, Jarhabhata, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Nitesh Kumar S/o Manoharlal Gidwani Aged About 29 Years R/o Bhakt Kawarram Nagar, Ward No. 05, Sindhi Colony, Jarhabhata, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Jonti Matlani @ Lovi S/o Shrichand Matlani Aged About 24 Years R/o Behind Anand Kutiya, Sindhi Colony, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Police Station Civil Line, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicants : Shri Ashish Shukla, Advocate.
For the Respondent/State : Smt. Smita Jha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.03.2019**

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. 789 of 2017, registered at Police Station – Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh for the offence punishable under Sections 186, 353, 294, 506 and 332 read with Section 34 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. The fact is that the complainant and others, who were the employees of the Municipal Corporation had come to the place of incident for demolition drive on the date of incident for the purpose of removing the illegal encroachment. As the applicants had not received any prior notice of the demolition drive, they were objecting to the same. The applicants have not deterred the municipal employees from performing their official duties they had only protected their rights and no offence has been committed by them. 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. It is submitted that there is clear evidence that these applicants have assaulted and deterred the public servants from performing their official duties. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. As alleged on the date of incident i.e. 14.10.2017, the demolition squad of Municipal Corporation, Bilaspur came to the spot where the applicants have their residences. The applicants opposed the demolition process in which the dispute got heated and it is alleged that these applicants abused, assaulted and injured the complainant and others. Hence, this case.

7. After considering the entire material present in the case-diary and taking into consideration the documents filed alongwith the application which show that the notice for demolition was received one day later to the date of incident, 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