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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 375 of 2019**

1. Neelkanth Chandrakar S/o Gajju Chandrakar Aged About 52 Years R/o Baldakachhar, Police Station Kasdol, District Baodabazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Bhushan Dhruw S/o Bhagwan Singh Dhruw Aged About 35 Years R/o Baldakachhar, Police Station Kasdol, District Balodabazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
3. Chhannulal S/o Rambagas Chandrakar Aged About 35 Years R/o Baldakachhar, Police Station Kasdol, District Balodabazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kasdol, District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 2345 Of 2019**

Rameshwar Sahu S/o Bhuvan Lal Sahu Aged About 44 Years R/o Faroda, Chowki- Bundeli, Thana- Tendukona, Tahsil- Bagbehra, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Station House Officer, Police Station- Kasdol, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicants : Smt. Indira Tripathi, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.05.2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the similar incident. M.Cr.C.(A) No. 375 of 2019 is the first

application under Section 438 of Cr.P.C. filed by the applicant for grant of anticipatory bail, who is apprehending arrest in connection with Crime No.347 of 2018, registered at Police Station – Kasdol, District – Baloda Bazar, Bhatapara, Chhattisgarh for the offences punishable under Sections 294, 506, 323, 435, 307/ 34 and 394 of the Indian Penal Code. M.Cr.C. No.2345 of 2019 is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicant for grant of regular bail to him, who has been arrested in connection with the aforesaid offence.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. In fact, complainant – Kuldeep Verma who is a contractor had a grievance that the Gram Panchayat had canceled his contract for extracting sand. The complainant came to the village on the date of incident alongwith 10-12 other persons and also brought a JCB machine. The applicants being the villagers requested the complainant not to operate for excavation but the complainant and his associates started assaulting and beating the applicants. Thereafter, a totally false FIR has been lodged against these applicants making false allegations. Hence, for these reasons, the applicants are entitled for grant of regular/ anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that in the FIR lodged and the statement given by the complainant and the witnesses there is clear allegation regarding the commission of this offence. Hence, for these reasons, none of the applicants deserve to be enlarged on regular/ anticipatory bail.

4. Heard counsel for both the parties and perused the case diary.
5. According to the FIR lodged, when the complainant who held a contract for sand excavation from Gram Panchayat, Baldakachhar was present on the spot with his associates, the applicants arrived there; quarreled with him and then assaulted the complainant and others with hands, clubs, rods and sickle after abusing and threatening them. It is alleged that the applicants also set to fire the vehicle of the complainant and also looted a sum of Rs.3,00,000/- from his possession. Hence, this case.
6. The submission made that the complainant was the aggressive party is without substance and the FIR has been lodged by the applicants has been brought to the notice of this Court, therefore, there is *prima facie against* these applicants. Hence, I do not find any specific reason to grant anticipatory bail to the applicants in M.Cr.C.(A) No. 375 of 2019. However, I feel inclined to allow the application for regular bail.
7. Accordingly, the bail application filed under Section 438 of the Cr.P.C. is rejected and the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant – Rameshwar Sahu in M.Cr.C. No. 2345 of 2019 shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any

default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi