NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 550 of 2019

1. Bhekh Ram Patel, S/o. Shri Uday Ram Patel, Aged About 52 Years, Occupation Service, Sub-Engineer, PWD, Kawardha, R/o. Village Rohara, Post Pandariya, Tehsil Pandariya, Police Station Pandatarai, District- Kabirdham, Chattisgarh.
2. Visheshar Patel, S/o. Shri Uday Ram Patel, Aged About 59 Years, Occupation Cultivation, R/o. Village Rohara, Post Pandariya, Tehsil Pandariya, Police Station Pandatarai, District- Kabirdham, Chhattisgarh.

----Applicants

Versus

State Of Chhattisgarh, Through : Distirct Magistrate, District- Kabirdham, Chhattisgarh.

---- Respondent

For Applicants : Mr. R.S. Marhas, Advocate

For Respondent : Mr. Rahim Ubawani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/04/2019

1. Apprehending arrest in connection with Crime No.156/2019, registered at Police Station – City Kotwali, District – Kabirdham (C.G.) for offence punishable under Section 4 & 5 of C.G. Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010, Section 294, 323, 506 read with 34 of the Indian Penal Code and Section 3 (1) (x) of the Scheduled Caste & Scheduled Tribes (Prevention of

Atrocities) Act, 1989, the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. No case is made out against the applicants on the basis of the material present in the case diary. The son of the applicant No.1 met with an accident on 21.03.2019 and were admitted to the private hospital of the complainant Dr. Suryakant Bharti, where he died during the course of treatment. Being aggrieved, the applicants and others reacted and called explanation from the doctor, as for what reason, the son of the applicant No.1 has died and simple argument had taken place. The son of the applicant No.1 died due to erroneous treatment provided by the complainant, therefore, he filed a complaint to the police on the same day. Copy of which is annexed as Annexure A/1, on which no action has been taken. Thereafter, repeated application has been filed by the applicants side but despite that the police has not taken any action against the complainant. Complainant has with the purpose of making a defence in his favour lodged this false FIR belatedly on 28.03.2019 making false allegation against this applicants. Therefore, it is prayed that the applicant be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that on the date on incident, the applicants assaulted threatened and abused the complainant, who is the member of scheduled caste, was also insulted for his social status. Therefore, he is not entitled to be released on anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

5. According to the FIR lodged on the date of incident, because of death of Vijay Patel, son of the applicant No.1, these applicants and others abused the complainant making allegation that deceased has died due to erroneous treatment given by him and then assaulted and threatened and injured him. It is alleged that this applicants and others also abused the complainant by his caste name.

6. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary it is peculiar case, where the applicants reacted because of death of their family member and the purpose of abusing the complainant something else, may be investigated, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.

7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.

8. 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. 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 him/her 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 applicanta shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram