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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 746 of 2019**

1. Nagul Nagesh S/o Late Nagul Ganglu Aged About 45 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
2. Smt. Nagul Basanti W/o Nagul Nagesh Aged About 40 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
3. Sonu Nagul S/o Nagul Nagesh Aged About 22 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
4. Golu Nagul S/o Nagul Nagesh Aged About 18 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
5. Vinod Peddi S/o Late Keshav Rao Peddi Aged About 35 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
6. Dinesh Peddi S/o Late Keshav Rao Peddi Aged About 28 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
7. Sanju Baghel S/o Ganglu Baghel Aged About 27 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh
8. Nagul Bojja S/o Nagul Neela Aged About 40 Years R/o Village Jeerampal, P.S. Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Gadiras, Disrtict- Sukma, Chhattisgarh., District : Sukuma, Chhattisgarh.

---- Respondent

For the Applicants : Shri Praveen Dhurandhar, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****17.05.2019**

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. 5 of 2018, registered at Police Station – Gadiras, District Sukma, Chhattisgarh for the offence punishable under Sections 146, 147, 149, 294, 323 and 506 of the Indian Penal Code and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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. In fact, it had been a dispute between the complainants and the applicants party regarding which one FIR has been lodged by the applicants' side also against the complainants which is a counter case registered as Crime No. 6 of 2018. The accused persons in the counter case have been granted anticipatory bail by this Court. Therefore, it had been a case of free fight and the allegation regarding abusing the members of the complainant party on the basis of their social status is totally false. 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 as there is registration of the offence under the provisions of Atrocities Act, therefore, Section 438 of the Cr.P.C. is not maintainable. Hence, the applicant is not entitled for grant of bail.

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

6. According to the FIR lodged, on the date of incident, when the applicants were celebrating the festival by playing DJ sound the complainant party came objecting on the place of incident. It is alleged that the applicants party formed an unlawful assembly and in furtherance of common object, abused, threatened, assaulted and injured the members of the complainant party. It is also alleged that the complainant who is a member of scheduled caste was insulted by his caste name. Hence, this case.

7. As it appears that the reason of dispute between both the parties had been playing of DJ sound and not that because of the social status of the complainants, therefore, I feel inclined to grant anticipatory bail to the applicants.

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