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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 810 of 2019

- Prabal Kumar Dubey S/o Shanti Swaroop Dubey, Aged About 48 Years, Caste Brahmin, Occupation Service (Vanpal), Forest Department, Forest Divisional Office, Manendragarh, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station AJAK, Baikunthpur, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

MCRCA No. 817 of 2019

- Kopnath Sharma S/o Late Ramkhelawan Sharma, Aged About 63 Years, R/o Ward No.20, Manendragarh, District - Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station - Manendragarh, District - Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

MCRCA No. 820 of 2019

- Hiralal Sen S/o Ramgarib Sen, Aged About 56 Years, R/o Ward No.21, Manendragarh, District Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Manendragarh, District Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri B.D.Guru, Advocate (in MCRCA No.810 of 2019),
Shri Anil S. Pandey, Advocate (in MCRCA No.817 of 2019),
Shri Shakti Raj Sinha, Advocate (in MCRCA No.820 of 2019).
For Non-applicant/State – Shri Rahim Ubwani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

24-06-2019

1. As these three MCRCA arise out of the same crime number, they are being decided by this common order.
2. MCRCA No.817 of 2019 and MCRCA No.820 of 2019 have been filed by

applicants Kopnath Sharma and Hiralal Sen for grant of anticipatory bail as they are apprehending their arrest in connection with Crime No.145/2018 registered at Police Station Manendragarh, District Korea, for the offence punishable under Section 342, 325, 120 B, 34 of the IPC and Section 3(1)(द), 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (in short 'the SC/ST Act').

3. MCRCA No.810 of 2019 has been filed by applicant Prabal Kumar Dubey for grant of anticipatory bail as he is apprehending arrest in connection with Crime No.145/18 registered at Police Station AJAK, Baikunthpur, for the offence punishable under Section 342, 325, 120-B, 34 of the IPC and Section 3 (1) (द) (घ), 3 (2) 5 (क) of the SC/ST Act.

4. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in the case. The applicants are forest officials they had been on duty on the date of incident 04-02-2018. The complainant Palle Singh was apprehended for making illegal transportation of coal from the forest area, on the basis of which a proceeding was drawn and fine of Rs.10,000/- was imposed upon the complainant which has been paid by him. Subsequent to that, the complainant has lodged the totally false FIR after passing of about three months from the date of incident making false and concocted allegation against the applicants. According to contents of the FIR itself, no offence is made out against the applicants under Section 3(1)(द)(घ), 3(2)(v)(क) of the SC/ST Act, whereas, rest of the offences registered are bailable in nature. It is also submitted that the applicants had acted in performance of their official duties. Hence, it is prayed that they may be benefited with grant of anticipatory bail.

5. Learned counsel for non-applicant/State opposes the applications submitting that according to contents of the FIR and the statement given by the complainant, no case is made out for grant of anticipatory bail.

6. Heard learned counsel for the parties and perused the case diary.

7. According to the FIR lodged on 04-02-2018 complainant Palle Singh was transporting two bags of charcoal from forest area when he was apprehended by the applicants. The applicants then used abusive words for the complainant and called him by name of his social status. It is alleged that the applicants have also assaulted and thrashed the complainant causing injuries to him, in which one grievous hurt has been caused in the form of fracture of left wrist. It is also alleged that the complainant was kept in confinement for some time despite he had paid the fine for the illegal transportation of the coal. The FIR was lodged after three months on 10-05-2018.

8. Considered on the entire material present in the case diary. There is clear delay of three months in lodging the FIR, the facts in the case diary itself disclose that in the same incident the complainant was apprehended for illegal transportation of forest produce and was imposed fine for the same. On perusal of the case diary, it appears that the evidence regarding commission of offence under the provisions of the SC/ST Act is yet to be collected and apart from that all the applicants are Government servants, therefore, for these reasons I feel inclined to allow all these applications.

9. Consequently, all these three anticipatory bail applications are allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil