

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 837 of 2019**

1. Vinayak Tamrakar, S/o. Late Shri Girija Shankar Tamrakar, Aged About 51 Years,
2. Brijesh Tamrakar, S/o. Late Shri Girija Shankar Tamrakar, Aged About 43 Years,

Both are R/o. Tamerpara, Durg, Tahsil and District Durg Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Phoolgaon, Chowki Incharge, Chowki Jewra Sirsa, Durg District Durg Chhattisgarh.

---- Respondent**M.CR.C.(A). No. 945 of 2019**

Vipin Tamrakar, S/o. Late Shri Girija Shankar Tamrakar, Aged About 49 Years, R/o. Tamerpara, Durg, Tahsil and District- Durg, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Phoolgaon, Chowki Incharge, Chowki Jewra Sirsa, Durg District Durg Chhattisgarh.

---- Respondent**and****M.CR.C.(A). No. 955 of 2019**

Vimal Tamrakar, S/o. Late Shri Girija Shankar Tamrakar, Aged About 47 Years, R/o. Tamerpara, Durg, Tahsil and District- Durg, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Phoolgaon, Chowki Incharge, Chowki Jewra Sirsa, Durg District Durg Chhattisgarh.

---- Respondent

For Applicants	: Mr. Prafulla N. Bharat, Advocate with Mr. Jitendra Shrivastava, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/06/2019

1. All the bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
2. Apprehending arrest in connection with Crime No.225/2019, registered at Police Station – Phoolgaon, (Chowki Incharge, Chowki – Jewra Sirsa), Durg, District – Durg (C.G.) for offence punishable under Section 406/34 of the Indian Penal Code, the applicants have preferred these applications for grant of anticipatory bail.
3. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. It is a case of civil agreement between the applicants in all three cases with the complainant. The applicants are the land owners and the complainant is tenant. The agreement clause does not stipulate about the mode of transfer of sale proceeds of the paddy, which have been deposited in the account of the applicants. The claim of the applicants is that they have made full payment of the paddy that have grown in the tenanted land to the complainant after deducting the tenancy rent. The claim made by the complainant is vague without exact details. Therefore, it is prayed that these applicants may be granted anticipatory bail.
4. Per contra learned State counsel opposes the applications for grant of bail and the submissions made in this respect. It is submitted that it is claimed by the complainant that she has cultivated and grown

paddy in the tenanted land, which were sold to the cooperative society by her. The sale proceeds in total is Rs.12,22,620/-, whereas, she has been paid only amount Rs.5,50,000/-, therefore, the applicants have misappropriated the sale proceeds for which complainant was entitled. Hence, no case is made out for grant of bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. Case of the prosecution is briefly discussed herein above.
7. Considered the submissions made and the contents of the case diary. There appears to be a dispute between the applicants and the complainant regarding entitlement on the sale proceed, therefore, looking to the nature of complaint and the allegation against these applicants and further the basis of the complaint is a civil agreement between both the parties, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, all the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. 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 each 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 applicants 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