

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 968 of 2019**

1. Lingraj S/o Jagpati Nayak Aged About 23 Years R/o Village - Kutela, Police Station And Tahsil Saraipali, District Mahasamund, Chhattisgarh.
2. Premshankar S/o Jagpati Nayak Aged About 33 Years R/o Village - Kutela, Police Station And Tahsil Saraipali, District Mahasamund, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Saraipali, District Mahasamund, Chhattisgarh.

---- Respondent**MCRCA No. 971 of 2019**

- Dhanmoti @ Bhanumati Nayak W/o Jagpati Nayak Aged About 48 Years R/o Village Kutela, Police Station And Tahsil Saraipali, District Mahasamund, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Saraipali, District Mahasamund Chhattisgarh.

---- Respondent

For Applicants	: Shri Vikash Pradhan, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/08/2019

1. Heard.
2. Since both the cases arise out of same crime number, therefore, they are being disposed off by this common order.
3. The Applicants in both the cases are apprehending their arrest in connection with Crime No. 178/2019 registered at Police Station

Saraipali, District Mahasamund, (C.G.). for the offence punishable under Sections 294, 323, 452, 506/34 of I.P.C.

4. Facts of the case, in brief, are that on 24.05.2019 at around 7:00 AM, Applicant No. 01 (in MCRCA No. 968 of 2019) namely Lingraj was jumping on the roof of Complainant Basant Kumari. When she asked him not to jump on the roof, then Applicant No. 01 alongwith Applicant No. 2 namely Premshankar and Applicant (in MCRCA No. 971 of 2019) came to courtyard of the Complainant through balcony and abused her. They also threatened her to kill. On the basis of the said background, report has been lodged and aforesaid offence has been registered.
5. Learned Counsel appearing for the Applicants submits that the Applicants are innocent and have been falsely implicated in the present case due to some previous dispute. It is further submitted that Complainant and present Applicants are relatives and they live in different rooms of the same house and they share the courtyard of house. It is also submitted that incident took place in the courtyard and not inside the house of the Complainant and the said courtyard is not in exclusive possession of the Complainant. In the above circumstances, *prima facie*, offence under Section 452 of the IPC can not be made out against the Applicants and apart from Section 452 of the IPC, all other offences are bailable. Thus, it is prayed that, present Applicants may be extended the benefit of anticipatory bail.
6. Learned Counsel appearing for the State opposes the bail application and submits that according to the material contained in the case diary, *prima facie*, the case alleged against the present Applicants are made out. Therefore, they do not deserve to be granted anticipatory bail.
7. I have heard learned Counsel appearing for the parties and perused the material available with due care.
8. Taking into consideration the submissions put-forth on behalf of the

parties and further considering the fact that apart from offence under Section 452 of IPC, all other offences are bailable and the fact that incident took place in the common courtyard of both the parties, I am inclined to extend the benefit of anticipatory bail to the present Applicants.

9. Accordingly, the bail application is allowed.

10. It is directed that in the event of arrest of the Applicants in connection with the aforesaid crime, they shall be released on anticipatory bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. They shall also abide by all the following terms and conditions :

- (i) 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 from disclosing such fact to the Court,
- (ii) They shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) They shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge