

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 753 of 2019

1. Chovadas Khandey S/o Shri Punsay Khandey, Aged About 56 Years, By Caste Satnami, R/o Village Bhathari, P.S. Jarhagaon, Tahsil, Civil and Revenue District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer Police Station Jarhagaon, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

MCRCA No. 1171 of 2019

1. Nikky Khandey S/o Shri Chovadas Khandey, Aged About 30 Years, By Caste - Satnami, R/o Village - Bhathari, Police Station - Jarhagaon, Tahsil, Civil and Revenue District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
2. Akash Kandekar S/o Shri Suresh Khandekar, Aged About 25 Years, By Caste - Satnami, R/o Village - Bhathari, Police Station - Jarhagaon, Tahsil, Civil and Revenue District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
3. Phuleshwar S/o Phudnan, Aged About 28 Years, R/o Village - Bhathari, Police Station - Jarhagaon, Tahsil, Civil and Revenue District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer Police Station - Jarhagaon District - Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

For Applicants – Shri Sunil Sahu, Advocate.

For non-applicant/State – Shri Vikram Dixit, Govt. Advocate.

Shri J.K. Gupta, Advocate for the objector in MCRCA No.753 of 2019.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-07-2019

1. As both these applications arise out of the same crime number, they are being decided by this common order.
2. Apprehending arrest in connection with Crime No.106/2019, registered at Police Station Jarhagaon, District Mungeli, C.G. for offence punishable under Section 294, 323, 506, 365/34 of the IPC, the applicants have preferred these applications for grant of anticipatory bail.

3. It is submitted by learned counsel for the applicants in these applications that the applicants have been falsely implicated in these case. The actual incident that has taken place was limited to simple exchange of words and some manhandling. The complainant in this case has lodged a written complaint to the police in which offence regarding his abduction for wrongful confinement was added later on, to attach gravity in the case against the applicants, whereas, such incident has not occurred. Further improvement has been made by the complainant and witnesses by giving statement under Section 161 of the Cr.P.C. regarding taking the complainant to a place, keeping in confinement and then thrashing him and also involving the other persons as accused in this case, which shows that there is continuous development of the complaint made by the complainant to falsely implicate the applicants in both the applications. The original incident that took place involves offences which are of bailable nature. Therefore, it is prayed that the applicants may be granted anticipatory bail.

4. Learned counsel for State/non-applicant opposes the applications submitting that the medical examination report of the complainant discloses four injuries on his body and multiple injuries on his back which itself suggests that more than one person were engaged in thrashing the complainant. Therefore, the case is supported with ample evidence. Hence, the applications may be rejected.

5. Learned counsel for the objector adopts the argument advanced by the State counsel and submits that applicant Chovadas Khandey is Ex.M.L.A. and he has exercised political influence, because of which the police officials have also supported him in the case. Therefore, there is possibility that this applicant may use influence on the investigation that is to be made. Hence, it is prayed that the application of this applicant may be rejected.

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

7. According to the FIR lodged, on the date of incident which was a polling

day for the assembly elections, it is stated in the FIR that at about 5:15 p.m. after polling were closed, applicant Chovadas Khandey called complainant Makral Yadav and for the reason that the complainant was an agent of one opposite political party, he abused him, threatened him and also caused injuries to him in presence of witnesses and others. In the concluding part of the FIR further statement has been made without mentioning the place that he was then forcefully taken to one place and was again assaulted and beaten.

8. Considered on the material present in the case diary. There appears to be gradual development in the narration of the incident that has been made by the complainant. It has been submitted by learned counsel for the applicants that it is a case of political rivalry which has support from this fact that applicant Chovadas Khandey is Ex. M.L.A. from one political party and complainant was acting as an political agent from another political party. Applicant Nikky Khandey is son of Chovadas Khandey. Therefore, after overall consideration on all the facts and circumstances of this case and for the reasons mentioned hereinabove, I feel inclined to allow both the applications.

9. Consequently, both these 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