

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1389 of 2019

- Dinesh Maheswari S/o Late Shri Jagdish Maheswari Aged About 37 Years R/o Near Durga Temple Killa Para, Opp- Chaudhary Computer, Sharma Nivas, Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Superintendent Of Police, Rajnandgaon, Chhattisgarh.

---- Respondent

AND

MCRCA No. 1397 of 2019

- Nitin Kumar Limbu S/o Late Shri Nirmal Kumar Limbu, Aged About 39 Years R/o Near Gauri Nagar Ward No. 14 Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Superintendent of Police, Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicants	: Shri T.K. Tiwari, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.
For Objector	: Ms. Prabha Sharma, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

20/11/2019

1. Heard.
2. Since both cases arise out of same Crime No., therefore, they are being disposed of by this common order.

3. The applicants have preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 463/2019 registered at Police Station City Kotwali, Rajnandgaon, (C.G.) for the offence punishable under Sections 420/34 of Indian Penal Code.
4. Facts of the case in brief is that, in January, 2017 a report was lodged against complainant Dr. R.K. Namdev and his son Shubham Namdev on the allegation of rape and subsequently they were taken into custody. At that time, Sandeep Chandel who was posted as Jail Prahari in the concerned jail as well as present applicants demanded Rs. 5,00,000/- from the complainant to settle the matter. Thereupon, the complainant agreed and he called one Smt. Bharti Belchandan of his department to the jail and told her about the settlement of the matter for Rs. 5,00,000/-. Somehow, Bharti Belchandan arranged and gave Rs. 5,00,000/- cash in two installments, despite of that compromise did not take place between complainant and applicants. Thereafter, complainant asked the applicants to return the said amount but they did not return the amount. After Shubham Namdev, son of the complainant, was released from jail on grant of bail, he was murdered. On April, 2019, complainant was released from the jail and then on 17.08.2019 he lodged an F.I.R. and on the basis of the said, offence has been registered.
5. Learned Counsel appearing for the Applicants submit that the applicants are innocent and have been falsely implicated in the present case. He further submits that incident occurred in the year

2017. Complainant was released from the jail in April, 2019 and F.I.R. has been lodged after a gap of four months i.e. on 17.08.2019 and prior to that no any complaint was made by Smt. Bharti Belchandan. He further submits that, after the murder of Shubham Namdev merg enquiry was conducted and during merg enquiry, applicant Dinesh (MCRCA No. 1389/2019) was severely tortured and harassed by the police and due to that he tried to commit suicide on 16.07.2019 by consuming poisonous substance. Applicant Dinesh had also written one suicidal note in which he had mentioned regarding the torture and harassment done by police. Wife of the applicant (Dinesh) has also lodged a complaint regarding the said torture caused by the police. On the basis of the said complaint, enquiry was initiated which is still pending. Therefore, to save themselves police officials with the help of present applicants, made a false complaint against them. Thus, the learned Counsel prays for grant of anticipatory bail to the applicants.

6. Learned Counsel appearing for the State opposes the bail application.
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, considering the facts and circumstances of the case, evidence collected by the prosecution and further considering the fact that incident occurred in the year 2017 and F.I.R. has been lodged on 17.08.2019, also that after being released on bail, Shubham Namdev, son of the complainant did not lodge any report and nor Bharti Belchandan had lodged any report, therefore, without further

commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicants.

9. Accordingly, the bail applications are 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/her 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