

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1440 of 2019

1. Vidyavati W/o Awadheshwari Prasad Aged About 82 Years Cast Kalwar, R/o Namnakala, P.S.- Gandhinagar, Tahsil- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Arun Gupta S/o Awadheshwari Prasad Aged About 62 Years Cast Kalwar, R/o Namnakala, P.S.- Gandhinagar, Tahsil- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
3. Vijay Gupta S/o Awadheshwari Prasad Aged About 60 Years Cast Kalwar, R/o Namnakala, P.S.- Gandhinagar, Tahsil- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Ashok Gupta S/o Awadheshwari Prasad Aged About 58 Years Cast Kalwar, R/o Namnakala, P.S.- Gandhinagar, Tahsil- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Station House Officer, Police Station Ajak Ambikapur, District- Surguja, Chhattisgarh.

---- Respondent

For Applicants	: Mr. Sanjay Pathak, Advocate.
For Respondent/State	: Mr. Anand Verma, Dy. G.A.
For Objector	: Mr. R.V. Rajwade, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

26/11/2019

1. The applicants have filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their

arrest in connection with crime no. 07/2019, registered at Police Station Ajak Ambikapur, Distt. Surguja, Chhattisgarh for the offence punishable under Sections 420, 468, 471, 294, 506 & 34 of the IPC and Sections 3 (1) (R-S) 3 (F), 3 (G) of SC ST (Prevention of Atrocities) Act.

2. As per prosecution story, on 18.02.2016, a report was lodged by the complainant Raghupal with the averment that on 16.01.1965, he had purchased a land bearing Khasra No. 463/3 admeasuring to 0.040 Hectares from Adil Sai, Nanka Munda and others and he was in possession of said land. Later on, he went outside of city for performing his duty and after retirement when he returned, he found that the applicants took legal possession over the said land. It has been disclosed by the applicants that they have purchased the land in the year 1980 through registered sale deed, it has also been alleged by the complainant that in the year 1980, by a forged registry, the applicants had transferred the land in their names and also got possession over the said land. On 13.01.2019, he went the spot and asked them to stop the illegal construction of the said land then they have abused him by caste and also threatened him. On the basis of said report, offence has been registered.
3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that applicant No. 1 is 82 years old lady and she has purchased land bearing Khasra No. 463/5 Rakba 0.04 Hectares by registered sale deed dated 21.11.1980 and after the diversion, she has been living along with her family members on the said land. In revenue record also, her name is recorded. The Counsel submits that applicant Vidyavati has purchased the said land from its original owner i.e. Nanka Munda and till date none of the regal heirs of Nanka Munda have challenged the sale deed. According to the complainant, he purchased the land bearing Khasra

No. 463/3 in the year 1965, but Applicant No. 1 was purchased the land bearing Khasra No. 463/5. Thus, it is clear that both the lands are different. *Prima Facie* no case can be made out against any of the applicants. He lastly submits that the applicants are the reputed person of their society, they are the permanent resident of above mentioned address and there is no chance of their absconding, therefore, they may be granted benefit anticipatory bail.

4. Per contra, learned counsel appearing on behalf of State and objector opposes the bail application.
5. I have heard learned Counsel for the parties.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that according to the complainant, he purchased the land bearing Khara No. 463/3 in the year 1965, but Applicant No. 1 was purchased the land bearing Khasra No. 463/5. Thus, it is clear that both the land are different. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicants.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-
 - I. That the accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/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. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. The applicants shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Arvind Singh Chandel)
Judge