

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1499 of 2019

1. Dharmendra Kunjam S/o Ankaluram Kunjam Aged About 43 Years R/o Village Timnar, Post Nagarbeda, Tahsil Antagarh, District Uttar Bastar Kanker Chhattisgarh.
2. Vijay Kumar Kunjam S/o Mr. Sanauram Kunjam Aged About 31 Years R/o Village Timnar, Post Nagarbeda, Tahsil Antagarh, District Uttar Bastar Kanker Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through District Magistrate District Uttar Baster Kanker Chhattisgarh.

---- Respondent

AND

MCRCA No. 1463 of 2019

1. Amit Kumar Yadav S/o Ratturam Yadav Aged About 27 Years By Caste Raut, R/o Village Timnar, Post Nagarbeda, Tahsil Antagarh, District Uttar Bastar Kanker Chhattisgarh.
2. Bhuneshwar Yadav S/o Mr. Sohanlal Yadav Aged About 23 Years By Caste Raut, R/o Village Timnar, Post Nagarbeda, Tahsil Antagarh, District Uttar Bastar Kanker Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through District Magistrate District Uttar Baster Kanker Chhattisgarh.

---- Respondent

For Applicants (In MCRCA No. 1499/2019): Mr. Parag Kotecha, Advocate.

For Applicants (In MCRCA No. 1463/2019): Mr. Parag Kotecha, Advocate.

For Respondent/State

: Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

28/11/2019

1. Since both the bail applications arise out of same crime number, therefore, they are being decided by this common order.
2. The applicants have filed these bail applications for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with crime no. 3/2018, registered at Police Station Ajak, Distt. Kanker (C.G.) for the offence punishable under Sections 294, 323, 506-B, 147, 452, 365 of the IPC and Section 3 (1)(r)(s), 3 (2)(v-a) & 3 (1)(d) of the SC and ST (Prevention of Atrocities) Act, 1989.
3. As per prosecution story, on 21.02.2018, an FIR has been lodged by the complainant alleging therein that on 21.02.2018 itself about 5 PM, the applicants and other co-accused persons entered in his house and threatened him, abused him and also committed *Marpeet* with him and when his father's sister tried to intervene then the applicants have beaten her. Thereafter, they have taken the complainant to village Timnar and there also again they have committed *Marpeet* with him. On the basis of report lodged by complainant, offence has been registered.
4. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the present case. Initially in FIR dated 21.02.2018, names of the applicants were not mentioned. In his statement recorded under Section 161 of Cr.P.C. also, the complainant did not state the names of accused persons and therein he only stated the names of co-accused and other persons. Thereafter, on 15.05.2018, his supplementary statement was recorded in which he, for the first time,

disclosed names of the accused persons. When at the time of recording his statement for the first time under Section 161 of Cr.P.C, he was not able to tell names of the accused persons then on what basis he stated the names of the present applicants then on what basis he stated the names of the present applicants in his supplementary statement, has not been stated by him. Thus, the applicants are involved in the crime in question is not established. Hence, it is prayed that the applicants may be granted benefit of anticipatory bail.

5. Per contra, learned counsel appearing on behalf of State opposes the bail applications.
6. I have heard learned Counsel for the parties and perused the case diary minutely.
7. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced learned counsel appearing for the parties and further considering the fact that in the FIR and in the statement of the complainant recorded under Section 161 of Cr.P.C. names of the applicants were not mentioned and their names were mentioned for the first time by the complainant in his supplementary statement, without further commenting on other merits of the case, in my considered opinion, the present applicants are entitled to grant of anticipatory bail.
8. Accordingly, the anticipatory bail applications are allowed.
9. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one solvent 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 them by the said Court till disposal of the trial.

Sd/-

(Arvind Singh Chandel)
Judge