

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1628 of 2018**

1. Azam Beg, S/o. Late Sultan Beg, Aged About 35 Years, R/o. Turkapara Raigarh, Tehsil District Raigarh Chhattisgarh. (Alam Beg wrongly mentioned in the order copy)
2. Haider Khan, S/o. Sher Hasim Khan, Aged About 28 Years, R/o. Dhobi Para Chandni Chowk, Raigarh, District Raigarh Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station City Kotwali, District Raigarh Chhattisgarh.

---- Respondent

For Applicants	: Mr. Mateen Siddiqui, Advocate
For Respondent/State	: Mr. Vijay Bahadur Singh, Panel Lawyer
For Objector	: Mr. Sanjay Agrawal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****07/01/2019**

1. Apprehending arrest in connection with Crime No.334/2018, registered at Police Station – City Kotwali, District – Raigarh (C.G.) for offence punishable under Section 147, 148, 149, 294, 307, 323, 506(B) of the Indian Penal Code and Section 25, 27 of Arms Act, the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. The fact is this that there had been a dispute between the members of the same community regarding which totally false FIR has been lodged against these applicants and other co-accused persons. One FIR has also been lodged by the applicant No.1, which is registered as Crime No.335/2018, in which the complainant party committed house trespass and assaulted the applicants and others for which an offence under Section 458 of I.P.C. has also been added in that case. The complainant themselves are criminal elements. It is submitted that co-accused persons namely Shah Alam Beg and Taju Kureshi have been granted anticipatory bail by this Court, therefore, it is prayed that the applicants may be enlarged on anticipatory bail.
3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that there is serious allegation against these applicants and they have actively participated in the commission of offence. Two other co-accused persons, who have filed application before this Court for grant of anticipatory bail have been directed by this Court to surrender before the trial Court, therefore, these applicants are also not entitled for grant of anticipatory bail.
4. Counsel for the objector after adopting the arguments advanced by the learned State counsel submits that there is specific allegation against these applicants regarding participation in the commission of crime, therefore, they may not be released on anticipatory bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

6. Complainant Mohd. Raju has lodged FIR on 30.03.2018 at 11.30 PM. He was informed that these applicants and other co-accused persons were assaulting his brother Mohd. Anis and Shahbaz and when the complainant arrived on the spot, he saw that Babu Khan assaulting Anis with butt of gun and also saw both these applicants armed with swords, whereas the other co-accused persons were armed with clubs. Mohd. Gulfam, Chand Biwi, Mohd. Raju and Mohd. Anis were injured in this incident and two of them have received incised wound. Hence, this case.
7. Considered the submissions made and the contents of the case diary. After considering on the entire material present in the case diary, it appears that there is evidence that both these applicants have assaulted the injured persons with swords, hence, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge