

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1644 of 2018

1. Mohammad Rafik S/o Shri Garib Khan Aged About 50 Years Occupation Farmar (Wrongly Mentioned The Name Of The Applicant In Impugned Order Rafi) R/o Village Navagaon Khurd Police Station Sahaspur /lohara District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
2. Mohammad Aslam S/o Shri Mohhammad Rafik Khan Aged About 30 Years Occupation Police Constable Presntly Working In Police Khamhriyadistrict Bemetara Chhattisgarh R/o Village Navagaon Khurd Police Station Sahaspur /lohara District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Sahaspur /lohara District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Respondent

For Applicant : Mr. Dheerendra Pandey, Advocate.
For Respondent : Mr. Arun Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

18/01/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.239/2018 registered at Police Station-Sahaspur, District – Kabirdham(C.G.), for the offence punishable under Sections 294, 506, 324, 323, 452, 34 of the IPC.

2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. No case is made out against these applicants. Infact it was a case of free fight regarding which a complaint was made by the applicant side against the complainant side, on the basis of which FIR has been lodged against the complainant and others, but lesser offences have been registered against them. The complainant has after using his influence has got registered non-bailable offence against the applicants. The applicant No.1 has suffered injury because of which he had to undergo treatment, hence, no case is made out against them, they may be granted anticipatory bail.
3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that there is clear evidence that these applicants with common intention trespassed into the house of the complainant and assaulted the complainant and others, hence, the application be rejected.
4. Heard both the parties and perused the case diary.
5. According to the FIR lodged on the date and time of incident, these applicants along with co-accused persons committed house trespass in the house of the complainant Toran on account of some previous enmity and after abusing and threatening him and others, assaulted the complainant and others with clubs and axe causing various injuries to them. Hence, this case.
6. According to the evidence present in the case diary, both these applicants are set to have been armed with clubs and one co-accused Firoj was armed with axe, hence, regarding the injury caused by axe, the co-accused Firoz appears to be responsible at this stage. For the

reason that applicant No.1 has himself suffered injury and that counter FIR has been lodged against the complainant in this case. Therefore, I am inclined to grant anticipatory bail to the applicants.

7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :

- (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that the 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) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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/-

(Rajendra Chandra Singh Samant)
Judge