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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1728 of 2018**

Banshi Lal Shau S/o Shri Khedu Ram Sahu Aged About 47 Years Caste Teli,
R/o Nayapara, Ward No. 03, Balod, Tahsil P.S. And District- Balod,
Chhattisgarh., District : Balod, Chhattisgarh.

---- Applicant**Versus**

1. Mohan Lal Thakur S/o Shri Kartik Ram Aged About 48 Years R/o Village Ghughsidih, P.S. Utai, District- Durg, Chhattisgarh, At Present R/o Near Fouwara Chowk, Purana Police Line Baloda, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh
2. State Of Chhattisgarh Through The District- Magistrate Balod, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh

---- Respondents**And****M.Cr.C.(A) No. 1729 Of 2018**

Lusan Chandrakar S/o Late Kushal Ram Aged About 57 Years Caste Kurmi,
R/o Village Kachandur, Tahsil Gunderdehi, District- Balod, Chhattisgarh At
Present Head Constable Markatola Camp, District- Balod, Chhattisgarh.,
District : Balod, Chhattisgarh

---- Applicant**Vs**

1. Mohan Lal Thakur S/o Shri Kartik Ram Aged About 48 Years R/o Village Ghughsidih, P.S. Utai, District- Durg, Chhattisgarh, At Present R/o Near Fouwara Chowk, Purana Police Line Baloda, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh
2. State Of Chhattisgarh Through The District- Magistrate Balod, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh.

---- Respondents

For the Applicants	:	Shri Praveen Dhurandhar, Advocate.
For the Respondent/ State	:	Shri Rahim Ubwani, P.L.
For the Objector	:	Shri B.P. Singh, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.02.2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Complaint Case No.779 of 2018 pending before the Court of Learned Judicial Magistrate First Class, Balod, District Balod, for the offence punishable under Sections 193, 195, 211, 465, 469 and 471/ 120B of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. Applicant – Lusan Chandrakar filed one FIR against complainant – Mohan Lal Thakur in the year 2011, on that basis offence under Section 292 of the IPC and Section 67 of the IT Act were registered against him for which he was prosecuted. The complainant was acquitted by the trial Court on 19.7.2013. Aggrieved with that judgment, applicant – Lusan Chandrakar firstly filed appeal before the Sessions Judge and after the dismissal of the same he has filed a revision petition before this Court which is admitted and pending. Therefore, the prosecution is still not over. The complainant has filed a complaint on 23.7.2014 in which cognizance has been taken on 6.10.2018. As the litigation is still pending and there is no such finding given that these applicants have made a false complaint against the complainant, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that totally a false complaint was made against the complainant by applicant – Lusan Chandrakar and with the help of applicant – Banshi Lal Sahu who is a

Computer Operator who prepared false electronic documents for the prosecution of the complainant. The trial Court in his judgment has given finding that the prosecution has failed to prove the electronic evidence, therefore, there is clearly a *prima facie* case against the applicants. The complainant who was the constable has suffered with loss of his employment because of the prosecution against him and it is clear that the applicants have maliciously prosecuted him. Hence, the applicants are not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.
5. The case against the applicants is briefly discussed herein-above. After overall consideration, I feel inclined to grant anticipatory bail to all the applicants in both the cases.
6. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.
7. It is directed that in the event of arrest of the applicants in both the cases in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. They 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 them 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