

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 263 of 2020**

1. Archana Dwivedi @ Pooja D/o Late Shri Ram Bal Dwivedi Aged About 27 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.
2. Aradhana Dwivedi @ Reena D/o Late Shri Ram Bal Dwivedi Aged About 27 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.
3. Alok Dwivedi S/o Late Shri Ram Bal Dwivedi Aged About 34 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.,
4. Kusum Dwivedi W/o Late Shri Ram Bal Dwivedi Aged About 60 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.,
5. Purnima Dwivedi @ Rampyari Soni W/o Shri Yogesh Dwivedi Aged About 36 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur,
6. Mamta Dwivedi W/o Shri Rajesh Dwivedi Aged About 47 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.,
7. Tanupriya Dwivedi D/o Shri Rajesh Dwivedi Aged About 25 Years R/o Near Danteshwari Temple, Dabripara, Kushalpur, Raipur, District Raipur, C.G.,

---- Applicants**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station- Purani Basti Raipur, District : Raipur, Chhattisgarh

---- Respondents**MCRCA No. 289 of 2020**

1. Akhilesh Kumar Dwivedi S/o Shri Ramkhilawan Dwivedi Aged About 23 Years R/o Dabripara, Kushalpur, Raipur, Tahsil And District Raipur Chhattisgarh,
2. Rajesh Kumar Dwivedi S/o Late Omkar Prasad Dwivedi Aged About 48 Years R/o Dabripara, Kushalpur, Raipur, Tahsil And District Raipur Chhattisgarh,

3. Yogesh Kumar Dwivedi S/o Late Omkar Prasad Dwivedi Aged About 40 Years R/o Dabripura, Kushalpur, Raipur, Tahsil And District Raipur Chhattisgarh,

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Purani Basti Raipur, District Raipur Chhattisgarh.

---- Respondent

For Applicants : Mrs. Smita Jha, Advocate.

For Respondent/State : Mr. Vimlesh Bajpai, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

23-06-2020

1. As both the aforesaid bail applications arise out of same crime number, they are heard analogously and are being decided by this common order.

2. The applicants have preferred the bail applications for grant of anticipatory bail under Section 438 of Code of Criminal Procedure, 1973 for grant of participatory bail apprehending their arrest in connection with Crime No. 411 of 2019 registered at Police Station Purani Basti, Dist. Raipur (CG) for alleged commission of offence under Sections 147, 148, 149, 294, 506(B), 323, 354 read with Section 34 of IPC.

3. Case of the prosecution is that on 11-12-2019, one Anju soni, daughter of Sharad Prasad Soni filed a written complaint in which she has alleged that on the date of incident one motor-cycle driven by unknown person dashed against another motor-cycle standing in front of the house of the complainant. Thereafter, a dispute arose between the parties in which on one side were the complainant's father, other relatives and neighbours and on the other side were the applicants of these bail applications where an assault was made, abuses were uproared. Anju Soni alleged that Lalu, Bhuru and other young boys being tenants of the accused side outraged her modesty by touching her private part.

4. Learned counsel for the applicants would submit that the incident is alleged to have happened because of motor cycle accident between two groups. The allegations are exaggerated. Though, some altercation took place between two groups, but the allegation of outraging modesty of Anju Soni is completely after-thought, therefore, in these circumstances, present applicants may be granted benefit of anticipatory bail.

5. On the other hand, learned counsel for the State opposes prayer for grant of anticipatory bail and submits that as per the report lodged by Anju Soni, in the incident of *marpit* between two groups, the applicants and their associates not only abused and assaulted the complainant party and they also outraged modesty of Anju Soni by touching her private part.

6. On prima facie consideration, the genesis of dispute appears to be accident by motor cycle. Even, according to the prosecutrix/complainant there were large gathering of persons and there were scuffle between two groups/families; one belonging to the side of the complainant/family and another belonging to the side of accused/family. Even, according to the complainant, accused persons injured large number of female members also. Moreover, the nature of allegation of outraging modesty is also not very clear. All this is said to have happened between two families having male and female members on both sides. Therefore, taking into consideration the over all aspects, particularly, the contents of the FIR itself, there is considerable force in the submission of learned counsel for the applicants that the allegation of commission of offence under Section 354 of IPC is an exaggerated and after-thought version, therefore, present are fit cases for grant of anticipatory bail.

7. Accordingly, both the applications are allowed and it is directed that in the event of arrest of the applicants in both the bail applications in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial court and the applicants shall abide by all the following terms and conditions.

- (i) that the applicants shall make themselves available for interrogation by a Police

- Officer as and when required;
- (ii) that they 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 from disclosing such facts to the Court or to any Police Officer.
 - (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Raju