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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 500 of 2020

1. Dauram Verma S/o Rupchand Verma Aged About 53 Years
2. Sitaram Verma S/o Hincharam Verma Aged About 40 Years
3. Govind Verma S/o Kamal Verma Aged About 35 Years
4. Bhushan (Pintu) Singh S/o Lav Singh Rajput, Aged About 35 Years
5. Ramsanehi Verma S/o Paklu Verma Aged About 45 Years
6. Bhupendra Verma S/o Ramji Verma Aged About 35 Years

All are R/o Village Belgaon, Beltara, Police Station
Thankhamariya, District Bemetara Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Thankhamariya, District Bemetara Chhattisgarh

---- Respondent

MCRCA No. 503 of 2020

- Smt. Usha Verma W/o Dauram Verma Aged About 50 Years R/o Belgaon, Beltara, Police Station- Thankhamariya, District- Bemetara, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- Thankhamariya, District- Bemetara, Chhattisgarh.,

---- Respondent

For Applicants
For Respondent /State

Ms. Sharmila Singhai, Advocate
Mr. Gagan Tiwari, Dy. GA

Proceedings through Video Conferencing

SB: Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

14/8/2020

1. Heard.
2. These are the two applications filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the applicants, who are apprehending their arrest in connection with Crime No.122/2019, registered at Police Station Thankhamariya, District Bemetara (CG) for the offence punishable under Sections 147, 148, 149, 506-B, 294, 427, 436 of the IPC and Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "the Act, 1989").
3. Complainant Santu S/o Bahadur lodged a written report on 19.7.2019 vide Annexure A-2, which is the basis of the present FIR, alleging that the applicants came to his house at 5:30 p.m. on 18.7.1019 and abused him in the name of his caste and thereafter, committed mischief by putting his house on fire at about 3:00 a.m. in the morning. The concerned Police enquired the matter and submitted report before the authorities observing that there is serious discrepancy/contradiction in the statements of the witnesses recorded during the enquiry and that the complainant, who has encroached the Government

land, has exaggerated the incident. It is also stated in the report, which has been filed by the applicants, that the applicants have not abused the complainant in the name of his caste. In his written report – Annexure A-2, the complainant has stated that on 18.7.2019, the SDO(R), Saja and Tehsildar, Thankhamariya have come to vacate the land encroached by him. Thus, the finding recorded by the concerned Police during enquiry over the written report is corroborated by the complainant's statement in para 1 of his written complaint/report that the concerned SDO and Tehsildar have come to his house for removing the encroachment.

4. Further, in view of the observation of the concerned Police, it is found that the ingredients of the offence under Section 3(1) (x) of the Act, 1989 is not *prima facie* believable, therefore, bar under Section 18 of the Act, 1989 would not come in the way of the applicants to secure anticipatory bail.
5. Considering the entire facts situation of the case, I am of the opinion that present is a fit case, in which, the applicants should be extended the benefit of Section 438 of the Cr.P.C.
6. Accordingly, the applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them furnishing a personal bond for a sum of Rs.50,000/- with one surety each in the like sum to the satisfaction of the Arresting Officer with the following conditions :-

MCRCA No. 500 of 2020 and another

- (i) they shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) 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 for disclosing such facts to the Court or to any Police Officer.
- (iii) they shall not influence the witnesses during pendency of the trial.

7. Certified copy as per rules. **Sd/-**

(Prashant Kumar Mishra)

Judge

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