

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1053 of 2020**

1. Bhoj Prasad Tiwari, S/o Shri Ramesh Prasad Tiwari Aged About 38 Years R/o Village Kauhapani, Present Address Ward No. 7, Vidya Nagar, Kawardha, Police Station and Tahsil Kawardha, District Kabirdham Chhattisgarh.
2. Nand Nirmalkar S/o Janak Nirmalkar Aged About 31 Years R/o Maa Karma Ward No. 2, Kawardha Police Station Kawardha, District Kabirdham Chhattisgarh.
3. Jhularam Baiga S/o Patiram Baiga Aged About 20 Years R/o Village Mudki, Present Address Kauhapani, Police Station Bhoramdev (Rajanawagaon) District Kabirdham, Chhattisgarh.
4. Vishnu Sahu S/o Bhagwat Sahu Aged About 23 Years R/o Village Rengakharkhurd, Police Station Kawardha, District Kabirdham Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through District Magistrate, Kabirdham , District Kabirdham, Chhattisgarh.

---- Respondent

For Applicants	: Shri Dharmesh Shrivastava, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****16/09/2020**

1. The matter is heard through video conferencing.
2. The applicants have preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 37/2020 registered at Police Station Bhoramdev, District – Kabirdham, (C.G.) for the offence punishable under Sections 294, 323, 506, 307,

34 of the Indian Penal Code.

3. After arguing for some length, Counsel for the applicants does not want to press this application with regard to applicant No. 1 namely Bhoj Prasad Tiwari. However, he prays for liberty that in the event of surrender of the applicant No.1 before the trial Court and filing of the regular bail application on his behalf, trial Court is directed to decide the bail application of the applicant as early as possible.
4. Accordingly, application is dismissed with regard to the applicant No. 1 namely Bhoj Prasad Tiwari with the aforesaid liberty.
5. According to the case of the prosecution, on 13.7.2020 complainant Anarkali made a report alleging therein that on the date of incident she alongwith her family members including her husband Raman Sahu, father-in-law, mother-in-law were going to their field to put manure. Allegedly, at that time applicants were present in the field and due to some dispute applicant No. 1 assaulted Raman Sahu on his head with *kudari* due to which he sustained injuries on his head and other parts of the body. Applicants also assaulted the complainant and other family members and they also sustained injuries. On the basis of the said report, initially offence under Sections 294, 323, 506, 34 of the I.P.C. registered. During course of investigation, after obtaining MLC report of Raman Sahu and the enquiry made by the investigating officer, offence under Section 307 of the I.P.C. is also registered.
6. Learned Counsel appearing for the applicants submits that the applicants are innocent and have been falsely implicated in the

present case. He further submits that main allegations are against the applicant No.1 namely Bhoj Prasad Tiwari who assaulted Raman with the help of *tangiya*. Other injuries caused to the complainant and family members are simple in nature. Thus, it is prayed that applicants may be granted benefit of anticipatory bail.

7. Learned Counsel appearing for the State opposes the bail application.
8. I have heard learned Counsel appearing for the parties and perused the material available.
9. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and after going the statements of the witnesses it appears that head injury was caused by applicant No.1 to Raman Sahu, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant No. 2, 3 & 4.
10. Accordingly, the bail application is allowed with respect to applicant No. 2, 3 & 4.
11. It is directed that in the event of arrest of the applicant No. 2,3 & 4 in connection with the aforesaid crime, they shall be released on anticipatory bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. They shall also abide by all the following terms and conditions :

- (i) 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 them from disclosing such fact to the Court,
- (ii) They shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) They shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge