

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1957 of 2019

1. Santoshi Gorkha W/o Sambhunath Gorkha Aged About 60 Years R/o Gujrati Gali, Darogapara, Raigarh, Tahsil And District - Raigarh Chhattisgarh.
2. Payal Chhadimali W/o Harsh Chhadimali Aged About 30 Years R/o Gujrati Gali, Darogapara, Raigarh, Tahsil And District - Raigarh Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station - City Kotwali, Raigarh District - Raigarh Chhattisgarh.

---- Respondent

For Applicants : Mr. Ashish Gupta, Advocate.

For Respondent/State : Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

09/03/2020

1. The applicants have filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with crime no. 868/2019, registered at Police Station City Kotwali, Raigarh Distt. Raigarh (C.G.) for the offence punishable under Sections 294, 323, 324, 326, 506, 147, 148, 149 & 307 of the IPC.
2. As per prosecution story, on 07.10.2019, at about 1:30 AM, when the complainant and his family members were returning from performing *Garba* dance allegedly the applicants and other co-accused persons formed unlawful assembly to achieve their common object and in furtherance of that, they have inflicted grievous hurt to the complainant and his family members by means of Sword, Iron Rod, Clubs and *Batta* due to which complainant Kuldeep Narsingh and his family members namely Raj Narsingh, Ankita Narsingh, Poonam

Narsingh, Uma Narsingh, Akhilesh Narsingh and Akshay Upadhyay were sustained injuries on their bodies. On the basis of report made by the complainant, offence has been registered.

3. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the present case due to family dispute between the parties. He further submits that virtually there was a free fight between both the families due to some previous enmity and complainant's party firstly assaulted the applicants and their family members. After the incident, report has also been made by the applicants' party. On the basis said report, a separate crime has also been registered against the complainant's party. The Counsel further submits that there is no material available on record on the basis of which *prima facie* offence under Section 307 of the IPC can be made out against the applicants. The Counsel further submits that at the time of incident applicant No. 1 assaulted Uma Narsingh and applicant No. 2 assaulted Ankita Narsingh due to which they have sustained only simple injuries. The Counsel submits that main allegations have been leveled against co-accused persons Ankur and Raja who were assaulted Akhilesh Narsingh by means of sword and they have already granted benefit of regular bail. Hence, it is prayed that the applicants may be granted benefit of regular bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for both the parties and perused the case diary minutely.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that the main allegations have been leveled against co-accused persons Ankur and Raja who were already granted benefit of regular bail. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicants.

7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-
- I. That accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/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. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
 - IV. 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/-

(Arvind Singh Chandel)
Judge