

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 68 of 2021

1. Santosh Dahariya, S/o Fhoolsing, Aged About 41 Years, R/o Village Sambalpuri, Police Station-Tehsil Bilha, District (Revenue and Civil) Bilaspur Chhattisgarh.
2. Angad Jogi, S/o Samelal Jogi, Aged About 45 Years, R/o Village Sambalpuri, Police Station Tehsil Bilha, District (Revenue and Civil) Bilaspur Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through Police Station Bilha, District (Revenue and Civil) Bilaspur Chhattisgarh.

---- Respondent

For Applicant : Mr. Sumit Jhawar, Advocate.
For Respondent/State : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

12/02/2021

1. This is 2nd bail application of this applicant for grant of anticipatory bail. His first application MCRC (A) No.1224 of 2019 was dismissed as withdrawn Section 438 of CrPC before the Sessions Court vide order dated 6.9.2019, therefore, there is no bail rejection order on merits.
2. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending arrest in connection with Crime No.158/2019 registered at Police Station-Bilha, District(Revenue & Civil– Bilaspur(C.G.), for the offence punishable under Section 294, 506, 323, 324, 147, 307 of the Indian Penal Code.

3. Learned counsel for applicants submits that applicant is innocent and has been falsely implicated in this case. It is although mentioned in the FIR and the statement of witnesses regarding the presence of these applicants on the place of incident, but they have not participated in the alleged commission of offences. Further, in the investigation, the Investigating Officer has considered to the ground of alibi made by both these applicants and they have not been arrayed as an accused in the charge-sheet that has been filed. It is subsequent to the filing of charge-sheet, that the Court has drawn a proceeding to consider on the complicity of these applicants for which process has been issued against them, which is the bailable warrant for their appearance on the next date of hearing i.e. 6.3.2020. Therefore, the applicants have apprehension that they may be arrested by the Court, therefore, it is prayed that applicants may be released on anticipatory bail.
4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the FIR and the diary statement of the complainant and other witnesses show the presence of these applicants in the incident that has taken place. Although for reasons unknown, the Investigating Officer has exonerated these applicants. The Court has drawn proceedings on the basis of the material that is present and it is only the process a bailable warrant that has been issued against the applicants, therefore, there is no necessity for grant of anticipatory bail, hence, the application be rejected.
5. Heard both the parties and perused the case diary.
6. The prosecution case is this, that on the date of incident the main accused Rajesh Dahriya and his associates formed an unlawful

assembly, who abused, threatened and assaulted the complainant Sohan Banjare causing injuries to him, on that basis offences have been registered against these applicants and the other accused persons.

7. Considered on the submissions. As there is a new development, that these applicants have not been charge-sheeted on the basis of the conclusion drawn by the Investigating Officer, and also that the trial Court is considering on this point whether these applicants should be proceeded against in the case or not, hence, this is a ground of apprehension of the applicants, hence, under these circumstances, I am of this view that this is a fit case for grant of anticipatory bail to the applicants.
8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants 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 him/her 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

Nisha