

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 135 of 2021

1. Shani Singh Raj S/o Ravibhushan Singh Raj, Aged About 22 Years, Caste- Gond, R/o: Village- Bamhanidih, Police Station- Bamhanidih, District- Janjgir-Champa, Chhattisgarh.
2. Abhikhek Nishad S/o Firatram Nishad, Aged About 22 Years, Cast -Kenwat, R/o: village -Bamhanidih, Police Station -Bamhanidih, District -Janjgir-Champa, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh Through The Station House Officer, Police Station- Saragaon, District- Janjgir-Champa, Chhattisgarh.

--- Respondents

For Applicants	: Mr. Atanu Ghosh, Advocate.
For Respondent-State	: Mr. Ajay Kumrani, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

25/03/2021

Heard.

1. Applicants have filed this bail application under Section 438 of the Cr.P.C. apprehending their arrest in connection with Crime No.07/2021 registered at Police Station -Saragaon, District -Janjgir-Champa, (C.G.), for the offence punishable under Sections 294, 323, 34, 506 & 457 of the Indian Penal Code.
2. At the outset, learned counsel for the applicants submits that he is not pressing application under Section 438 of Cr.P.C with respect to applicant No.1 -Shani Singh Raj and seeks permission of this Court to withdraw it with a direction to the concerned Court that application for regular bail to be filed upon his surrender be decided on the same day.
3. As prayed, application under Section 438 of Cr.P.C with respect to applicant No.1 is dismissed as withdrawn. In the event applicant No.1 after his surrender, files regular bail application, same may be decided preferably on the same day in accordance with law.

4. Case of the prosecution, in brief, is that on 12.01.2021 at about 7:00 PM applicant No.1 entered into the house of complainant with Axe and abused her in filthy language, applicant No.2 was standing outside the house of complainant on motorcycle to help applicant No.1, hence, aforesaid offences was registered against them.
5. Learned counsel for the applicants submits that applicant No.2 is a students and studying in Semester -II at Bilaspur College of Polytechnic affiliated with the Chhattisgarh Swami Vivekanand Technical University, Bhilai. Allegations levelled against applicant No.2 is only that he was standing outside the house of complainant on motorcycle to help applicant No.1 who allegedly entered into the house of complainant. Offence under Section 457 of IPC levelled against applicant No.2 would not be made out and other major offences ie under Section 294, 323 & 506 of the Indian Penal Code are bailable. Hence, he may be extended benefit under Section 438 of Cr.P.C.
6. On the other hand, learned State Counsel opposes the submissions made by learned counsel for applicants and submits that as per written complaint there is specific allegation against applicants that applicant No.1 entered into the house of complainant with Axe and applicant No.2 assisting him standing outside the house of complainant on motorcycle to escape from there, hence, applicant No.2 is also not entitled for benefit under Section 438 of Cr.P.C.
7. Heard learned counsel for the parties.
8. Considering the entire facts and circumstances of the case, nature of allegation and the fact that in the written complaint allegation of entering into the house of complainant and abusing has been made against applicant No.1 only, applicant No.2 is a student of Bilaspur College of

Polytechnic, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to applicant No.2.

9. Accordingly, anticipatory bail application of applicant No.2 is allowed and it is directed that in the event of arrest of applicant No.2 in connection with the crime in question, he be released on bail by the officer arresting him on executing a personal bond in sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned Investigating Officer. Applicant No.2 shall also abide by the following conditions :

- (i) that applicant No.2 shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that applicant No.2 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 applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant No.2 shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-