

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 196 of 2021**

1. Jawahar Lal Yadav S/o Late Shri B. P. Yadav Aged About 61 Years R/o Qr No. Mq-10, Dipka Colony Police Station Dipka, Tehsil Katghora, District : Korba, Chhattisgarh
2. Nitesh Yadav S/o Jawahar Yadav Aged About 34 Years R/o Qr No. Mq-10, Dipka Colony Police Station Dipka, Tehsil Katghora, District : Korba, Chhattisgarh
3. Lavlesh Bhargava S/o Late Shri P. N. Bhargava Aged About 53 Years R/o Qr No. B-74, Urja Nagar, Post Gevra Police Station Dipka, Tehsil Katghora, District : Korba, Chhattisgarh
4. Mahendra Singh S/o Late R. I. Singh Aged About 47 Years R/o Qr No. B-1/77, Urja Nagar, Police Station Dipka, Tehsil Katghora, District : Korba, Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station- Dipka, Tehsil Katghora, District : Korba, Chhattisgarh

---- Respondent

For Applicants	:	Mr. Ashutosh Shukla, Advocate.
For Respondent.	:	Mr. B.P. Banjare, Dy. G.A.
For Objector	:	Mr. Amit Kumar, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****25/06/2021**

Proceeding through video conferencing.

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicants who are apprehending their arrest in connection with Crime No.13/2021 registered at Police Station – Dipka, District Korba (C.G.) for commission of the offence punishable under Sections 457, 380 and 34 of Indian Penal Code.
2. The prosecution story, in brief, is that applicant No.1-Jawahar

Lal is the owner of shop situated near Bajrang Chowk, Dipka. He had given his shop to complainants Falak Mustaq Khan and her husband Mustaq Khan on rent, who were running a restaurant in it. Further case is that the complainants neither paid electric bill of Rs.1,20,000/- to the applicant No.1 nor rent for three years. Allegation against the present applicants is that they entered the shop, which was closed from 22.03.2020 to 19.11.2020 due to lockdown, and committed theft of Rs.35,000/- as also furniture and utensils kept in the restaurant. Based on this, offence has been registered against the applicants.

3. Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the crime in question. He further submits that the complainants did not pay rent of applicants' shop for last 1 ½ years and electric bill of Rs.1,20,000/-. He also submits that on 18.09.2020 the applicants filed a complaint against complainants before Superintendent of Police, Korba, and thereafter, on 19.11.2020, the complainants moved a complaint against them suppressing the fact of tenant of the shop of applicants. He also submits that the electric bill of the shop has been paid by the applicants and false allegation of theft of Rs.35,000/- has been levelled against them. Learned counsel also submits that the applicants are ready to abide by all the terms and conditions which may be imposed upon them by the Hon'ble Court while granting anticipatory bail.
4. Counsel for the State however opposes the application for

anticipatory bail.

5. Learned counsel for the objector opposing the anticipatory bail submits that due to covid lockdown the shop of complainants was closed and, therefore, they could not pay the rent, but taking out the articles of shop after breaking lock is an offence. The neighbours of complainant's shop informed them that the applicants along with 4-5 persons looted the articles kept in the shop as also cash of Rs.35,000/-. Therefore, anticipatory bail may not be granted to the applicants.
6. After hearing counsel for the parties and considering the facts and circumstances of the case, and further considering the fact that prior to filing of FIR the applicants had moved a complaint on 18.09.2020 (Annexure A-3), without commenting anything on merit of the case, this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the applicants.
7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with aforesaid crime number, they shall be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- each with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the court concerned, as the case may be, with the following terms and conditions:
 - (i) that the applicants shall make themselves available for interrogation/medical examination before the concerned 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 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/-

(Rajani Dubey)
Judge

pkd