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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 538 of 2021

- Shivanand Gupta, S/o Sacchinanad Gupta, aged about 24 years (mentioned in the FIR as Shivanand Singh), Occupation- Businessman, R/o Semali Chowk, Balrampur, Police Station- Balrampur, Revenue and Civil District- Balrampur- Ramanujganj, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station- Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh.

---- Respondent

AND

MCRC(A) No. 416 of 2021

- Jeet Kumar Gupta (wrongly mentioned as Ajit Kumar Gupta), S/o Hridyanand Gupta, aged about 18 years, Resident of Village Semali, Police Station Balrampur, District Balrampur-Ramanujganj, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Balrampur, District Balrampur-Ramanujganj, Chhattisgarh.

---- Respondent

For Applicants	: Shri Goutam Khetrapal, Advocate.
For Respondent/State	: Shri Ghanshyam Patel, Govt. Advocate.
For Complainant	: Ms. Priya Sharma, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

15/07/2021

1. Heard through video conferencing.

2. As both the cases arise out of same crime number, therefore, being decided by this common order.

3. The applicants have preferred the third bail application under Section 438 of Cr.P.C. for apprehending their arrest in connection with Crime No. 48/2020 registered at Police Station Balrampur, District – Balrampur-Ramanujganj, (C.G.) for the offence punishable under Sections 341, 147, 149, 307 & 323 of the Indian Penal Code.

4. First bail application of the applicants was dismissed as withdrawn vide order dated 17/08/2020 passed in MCRC(A) No.944/2020 with liberty to file a regular bail application before the trial Court.

5. Second bail application of the applicant Shivanand Gupta was dismissed with the observation that, no new ground was found to entertain the said bail application vide order dated 01/12/2020 passed in MCRC(A) No.1414/2020. Whereas second bail application of applicant namely Jeet Gupta (wrongly mentioned as Ajit Kumar Gupta) was dismissed for want of prosecution vide order dated 06/01/2021 passed in MCRC(A) No.1530/2020.

6. In this case there are total five accused persons. According to the case of prosecution, on 20.03.2020, daughter of the complainant (Ashok Singh) left her house without any information. On 22.03.2020 complainant went to village Pindra alongwith his brother Surendra for searching his daughter. When complainant received the information that his daughter was coming with one Imran @ Istafar, he called Imran but he fled away from village Pindra. It is alleged that thereafter, both the present applicants and other co-accused persons came there and assaulted the complainant, his brother Surendra and one Parmanand with hand, fists and cricket bat due to which they

sustained injuries. Matter was reported by Ashok Singh and on the basis of the said, offence has been registered.

7. 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 co-accused namely Sachidanand Gupta has already been granted benefit of anticipatory bail by this Court vide order dated 17/8/2020 passed in MCRC(A) No. 636/2020. It is further submitted that both the parties i.e. complainant and accused persons have settled their dispute and have entered into compromise and on the basis of an affidavit made by the complainant, the Hon'ble Supreme Court has granted ad-interim bail to the co-accused person namely Guruvachan Singh, whose second bail application was dismissed by this Court vide order dated 01/12/2020 passed in MCRC(A) No.1414/2020. Since, on the basis of compromise between the parties, co-accused Guruvachan Singh has been granted ad-interim bail by the Hon'ble Supreme Court, on the ground of parity, both the present applicants are also entitled to get benefit of anticipatory bail. He further submits that complainant Ashok Singh has also executed an affidavit dated 13/07/2021 in favour of the applicants and according to the said affidavit, at present, both the parties have settled their dispute. Looking to the above, it is prayed that, applicant may be granted benefit of anticipatory bail.

8. Learned Counsel appearing for the State opposes the bail application and the arguments advanced by counsel for the applicants. He further submits that the first bail application of the applicants was dismissed

as withdrawn and they were directed to surrender before the trial Court but they have not surrendered themselves and rather filed a fresh anticipatory bail application before the Sessions Court where they have concealed the fact that their first bail application has been dismissed by this Court. Also, when co-accused Guruvachan Singh filed S.L.P. before the Hon'ble Supreme Court, the fact that his first bail application before this Court was dismissed as withdrawn with liberty to file a regular bail application before the trial Court in the event of his surrender before the trial Court, was suppressed. At the time of filing of anticipatory bail application before the Sessions Court, present applicants were aware of the fact that their first anticipatory bail application was dismissed by this Court, despite of that they have intentionally filed a false affidavit in support of their bail application before the Sessions Court. Thus, looking to the conduct of the present applicants, they are not entitled to get benefit of anticipatory bail.

9. I have heard learned Counsel appearing for the parties, perused the case diary and other documents annexed with the bail petition filed by both the parties.

10. With regard to the arguments advanced by the counsel for the State regarding suppression of the facts and submission of false affidavit made by applicants before Sessions Court, if it is found that applicants have intentionally suppressed the facts and submitted false affidavit then they shall have to suffer the consequences for the said misconduct.

11. Taking into consideration the submissions put-forth on behalf of the

parties, considering the fact that prior to this bail application, none of the bail applications of the applicants have been decided on merits, and further considering the fact that after rejection of the bail application of co-accused Guruvachan Singh by this Court, the Hon'ble Supreme Court has granted ad-interim bail to him on the ground that matter has been compromised between both the parties, and further on the ground of parity and looking to the fact that the complainant Ashok Singh has appeared in person before this Court and also filed an affidavit dated 13/07/2021 wherein it has been stated by him that both the parties have settled their matter and compromise has been done and he has no objection on grant of anticipatory bail to the present applicants, I am inclined to grant anticipatory bail to the present applicants.

12. Accordingly, the present bail applications are allowed.

13. It is directed that in the event of arrest of the applicants 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 him/her 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

Prakash