

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 592 of 2021**

1. Girdhar Singh Thakur S/o Shri Ishwar Singh Thakur, Aged About 50 Years
2. Ashish Thakur, S/o Shri Ishwar Singh Thakur, Aged About 21 Years
3. Pradeep Thakur, S/o Shri Ishwar Singh Thakur, Aged About 44 Years
All R/o Gol Chowk, Rohinipuram, Police Station D.D. Nagar, Tahsil and District Raipur Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh Acting through SHO Police Station Maudahapara Raipur, District - Raipur, Chhattisgarh.

---- Non-applicant

For Applicants : Mr. Lukesh Kumar Mishra, Advocate
For Non-applicant/State : Mr. Vaibhav Singh, P. L.

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**16.07.2021**

1. The applicants have preferred this First bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as they are apprehending their arrest in connection with Crime No.25 of 2021, registered at Police Station Maudahapara, District Raipur C.G., for offence punishable under Sections 294, 456, 506, 34 of the Indian Penal Code.
2. Case of the prosecution in brief, is that in the intervening night of 07.07.2018-08.07.2018, present applicants along with others have broke open the lock of shop No.26 situated at old medical complex Raipur, owned by the complainant. The incident was reported to concerned police station on 13.02.2021 and on that basis, instant crime was registered against the applicant along with others.

3. Mr. Lukesh Kumar Mishra, learned counsel for the applicants would submit that absolutely false and baseless allegations have been levelled against the present applicants only to mount pressure upon them for vacating the said shop. He submits that the present applicants are tenant of shop No.26 which is undisputedly owned by the complainant. He submits that instead of filing an application in accordance with law for eviction of tenant from rented shop of the present applicants, complainant has adopted illegal means to get the present applicants evicted. It is contended that complainant had taken help of the police, due to which, Station House Officer has taken illegal action, against which, a complaint was lodged. The copy of complaint filed by Rakhi Thakur (daughter of appellant No.1) is at page No. 26. He referred to copy of First Information Report at page No.21, in which, complainant is Santosh Kumar Lunkad (brother of complainant) in this case, which lodged on 08.07.2020 against applicant No.1, applicant No. 2 and son of applicant No.1. It is further contended that First Information Report lodged by brother of complainant would show that even on 08.07.2020, status of present applicants were as tenant and it is mentioned therein that since last 4-5 years, they are occupying the shop No.26 as tenant, but have not paid the agreed rent for last 10 months. He submits that in view of the contents of First Information Report itself, allegation levelled against the present applicants that the applicants were evicted prior to 07.07.2018 from the tenanted shop No.26 is baseless, hence, applicants may be enlarged on

bail. He further pointed out that except the offence under Section 456 of the IPC, all other offences are bailable. Making allegation against female members of family itself shows that complaint is false. It is further contended that other co-accused persons by name Rakhi Thakur, Pinki Thakur and Bhawna Thakur have been enlarged on anticipatory bail in the instant crime vide order dated 23.06.2021 in MCRCA No.582 of 2021.

4. On the other hand, Mr. Vaibhav Singh, learned P.L. for the State opposes the submissions made by learned counsel for the applicants and submits that from the contents of First Information Report itself, it is evident that the applicants have broke open the lock of shop No. 26 in the intervening night of 07.07.2018-08.07.2018, hence, instant crime is registered against the present applicants. However, upon asking the explanation with regard to delay, he submits that it is mentioned that under the fear and due to ill-health of complainant. He further pointed out that the statements of two witnesses, namely, Basant Kumar Soni and Muga Mahanand were recorded under Section 161 of Cr.P.C., in which, they have stated that in the intervening night of 07.07.2018-08.07.2018, at about 11.00 P.M., 3-4 persons, in which, one of them was shop owner of No.26 broke open the lock.
5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, particularly the fact that the incident as stated in the First Information Report is of intervening night of 07.07.2018-08.07.2018, the report was lodged only on 13.02.2021, the

explanation of delay is not appearing to be satisfactory, more so, when as per First Information Report dated 08.07.2020 lodged by his brother, who is doing business in the shop No.25 in the same complex i.e. old medical complex at Raipur has stated that applicants are their tenants since 4-5 years and they have not paid the rent for last 10 months, I am inclined to release the present applicants on anticipatory bail.

7. Accordingly, 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 anticipatory bail on their furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum to the satisfaction of the arresting officer and they shall abide by the following conditions :-

- (i) they shall make himself available for interrogation by a police officer as and when required;
- (ii) 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 them from disclosing such facts to the Court or to any police officer.
- (iii) they shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-

(Parth Prateem Sahu)
Judge