

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 632 of 2021**

1. Tosh Kumar Bareth S/o Ghurau Ram Bareth, Aged About 28 Years,
 2. Ghurau Ram Bareth S/o Late Jay Lal Bareth, Aged About 62 Years,
- Both R/o- Village Tilgi, Post and P.S.- Pusour, Tahsil Pusour, District Raigarh (Chhattisgarh).

---- Applicants**Versus**

State of Chhattisgarh Through Station House Officer, P.S.- Pusour District Raigarh (Chhattisgarh).

---- Non-applicant

For Applicants	: Mr. F.S. Khare, Advocate.
For State/Non-applicant	: Mr. Vaibhav Singh, P.L.

(Proceedings through video conferencing)
Hon'ble Shri Parth Prateem Sahu, Judge
Order on Board

13.07.2021

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.64 of 2021 registered at Police Station Pusour District Raigarh C.G., for commission of offence punishable under Sections 294, 506, 323, 326, 34 of the Indian Penal Code.
2. Case of the prosecution is that on 29.03.2021 at about 5.00 P.M., when the complainant was going to his agricultural field, at that relevant time, present applicants came there and started quarreling with him on the ground that why the complainant has disconnected the electricity connection. Complainant was assaulted by the applicants by hands and fists and also gave threatening of his life. The First Information Report for the incident dated 29.03.2021 was registered on 11.04.2021, based upon

which, aforementioned crime was registered against the present applicant.

3. Mr. F.S. Khare, learned counsel for the applicants submits that as the complainant has disconnected the electricity connection provided to their agricultural field for running water pump, some dispute took place between them. He submits that as per allegations appearing from *Ishtgasha* at page No.22 and copy of *Rojnamchasanha* at page No.28, applicant No.1 has assaulted the complainant by hands and fists, due to which, complainant suffered injury near his left eye and left ear. He further submits that the documents further shows that looking to the minor simple injuries, the complainant himself not agreed to go for the expert check-up by ENT Specialist. The report has been lodged only on 11.04.2021. He submits that applicant has not used any arms to assault the present applicant and in scuffle, complainant might have suffered simple injuries, hence, they are entitled for grant of anticipatory bail.
4. On the other hand, Mr. Vaibhav Singh, learned counsel representing the State while opposing the submissions made by learned counsel for the applicants submits that as per material available in the case diary, the allegation with regard to quarrel took place with Toshram. He submits that immediately on the next day, the complainant was sent for MLC where the doctor examined the complainant found two injuries i.e. contusions over the left eye and decrease in hearing. The expert opinion was received on 08.04.2021 wherein it is mentioned that complainant suffered permanent loss of hearing.
5. Upon putting specific query with regard to the means by which applicants have made assaulted upon the complainant, he submits that there is no

specific mention with regard to use of any hard and blunt object, but he referred to the statement of one Bhojram Patel, (independent witness) to submit that the said witness only stated that he saw the applicant and complainant quarreling, to which, he asked to settle the dispute and thereafter left the place of incident.

6. I have heard learned counsel for the parties.
7. Undisputedly, the incident took place on account of some disconnection of electricity connection by the complainant of the present applicants. As per allegation, the assault made by the applicants is by hands and fists. The documents placed on record at page Nos.22 and 28, which is *Ishtgasha* and *Rojnamchasanha* wherein it is mentioned that looking to the nature of minor injuries, the applicant refused to go for his check-up to the expert. The copy of these documents are obtained from the office of Naib Tahsildar. These documents have not been controverted by the learned counsel for the State but submits that he has made submission on the basis of material available in the case diary.
8. Considering the entire facts and circumstances of the case, nature of allegations, documents placed on record by the learned counsel for the applicants at page No.22 and 28, which are the certified copies obtained from the office of Naib Tahsildar, Pusour, without commenting anything into the merits of the case, I am of the view that present is a fit case where applicants should be enlarged on anticipatory bail.
9. Accordingly, application is allowed and it is directed that in the event of arrest of the applicants in connection with the crime in question, they shall be released on anticipatory bail by the officer arresting them on their furnishing a personal bond in the 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. 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 their 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/-
(Parth Prateem Sahu)
Judge**