

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 657 of 2021

1. Chowaram Dhankar, S/o Late Ramgulal Dhankar, aged about 57 Years.
2. Smt. Neera Bai, W/o Chowaram Dhankar, aged about 55 years.

Both are R/o Gourbath, Thana Aarang, District Raipur (CG)

---- Applicants

Versus

- State of Chhattisgarh Through Police Station Aarang, District Raipur

---- Non-applicant

For Applicants	:	Mr. Sanjay Agrawal, Advocate.
For Non-applicant	:	Mr. Vaibhav Singh, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

15/7/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No.224/2021 registered at Police Station Aarang, District Raipur for commission of offence punishable under Sections 147, 148, 294, 506(B), 323, 307, 34 of the Indian Penal Code.
2. The prosecution story, in brief, is that on 8.5.2021 at about 9:00 a.m. the complainant objected to use of water of well by the family members of present applicants on the ground that they have their own borewell. Upon this objection, a quarrel took place between them and in that process, co-accused Parmeshwar Dhankar, in the heat of passion, went inside his house, came back with an axe and gave axe blow on the head of injured Jitendra Dhankar. Incident was reported to the concerned police station, based upon which instant crime is

registered against present applicants and others.

3. Mr. Sanjay Agrawal, learned counsel for applicants submit that the applicants and the complainant party are branches of same family. After partition, the well has fallen in the share of complainant party, both were using water of that well. However, on the date of incident, some quarrel took place with regard to use of water from the well. He further submits that initially quarrel between two families took place near the well (badi) and thereafter on road. Present applicants were not having any intention to make any physical assault upon the complainant party. It is co-accused Parmeshwar Dhankar who, in the heat of passion, went inside his house, came back with axe and caused one lacerated wound on the head of injured Jitendra by axe. He further submits that in respect of incident in question applicant No.1 has also lodged report with the concerned police station based on which Crime No.223/21 is registered for commission of offence under Sections 294, 323,506B, 34 of IPC. The applicants are aged persons of 57 & 55 years respectively and they have not made any assault by means of arm. Hence they may be extended benefit of anticipatory bail under Section 438 of CrPC.
4. Mr. Vaibhav Singh, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicants and submits that as per material available in case diary, there was dispute between two families with regard to use of water from well. On specific query put by the Court as to how assault was made by co-accused, learned State Counsel read out the statement of injured Jitendra recorded under Section 161 of CrPC and submits that while quarrel was going on, co-accused Parmeshwar went inside his house, came back with an axe and gave an axe blow on the head of injured Jitendra.
5. I have heard learned counsel for the parties.

6. Taking into consideration the nature of allegations, the fact that in the process of quarrel co-accused Parmeshwar, in heat of passion, went inside house, came back with axe and caused injury on the head of injured Jitendra and further considering the age of applicants and role played by them, without commenting anything on merits of case, I am inclined to release the applicants on anticipatory bail.
7. Accordingly, the application is allowed and it is directed that in the event of arrest of applicants in connection with the crime in question, they shall be released on anticipatory bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
- (i) that they 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 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/-
(Parth Prateem Sahu)
Judge

roshan/-