

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 577 of 2021

- Arjun Raja Gupta S/o Shri Ajay Kumar Gupta, aged about 19 years, R/o Village Karauli, Police Station Dhaupur, District Surguja (CG)

---- Applicant

Versus

- State of Chhattisgarh, through the Station House Officer, Police Station Dhaupur, Surguja, District Surguja (CG)

---- Non-applicant

MCRCA No. 689 of 2021

- Vijay Kumar Yadav S/o Ramdhani Yadav, aged about 21 years Occupation - Student (B.Com Second Year), R/o Village - Amdari, Police Station & Tahsil - Rajpur, District - Balrampur - Ramanujganj (CG)

---- Applicant

Versus

- State of Chhattisgarh through the Station House Officer, Police Station Dhaupur, District - Surguja (CG)

---- Non-applicant

M.Cr.C (A) No.577/2021

For Applicant	:	Mr. B.P. Sharma, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate with Mr. Roshan Dubey, Panel Lawyer

&

M.Cr.C (A) No.689/2021

For Applicant	:	Mr. Jitendra Shrivastava, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate with Mr. Roshan Dubey, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

28/7/2021

1. As the above anticipatory bail applications arise out of the same crime number, they are being heard together and decided by this common order.

2. Above two applications under Section 438 of CrPC have been filed by the applicants for grant of anticipatory bail to them as they apprehend their arrest in connection with Crime No.31/2021 registered at Police Station Dhaurpur, District Surguja for commission of offence punishable under Sections 147, 148, 149, 294, 506, 323 & 307 of IPC.
3. Case of the prosecution, in brief, is that on account of use of word 'baklol' for complainant Arun Yadav in the face-book account of Praveen Yadav, a dispute arose between the complainant and said Praveen Yadav. The complainant was called by accused persons at Dhaurpur for settlement, when the complainant did not come, then at about 7-30 - 8.00 p.m. accused Praveen Yadav telephoned the complainant informing him that he has reached his village and asked him to come near the square. The complainant along with his brother Prince Yadav reached the place where accused Praveen Yadav along with his companions Ravindra Yadav, Arjun Gupta, Ayush Gupta, Rahul Gupta, Vijay Yadav and Ashish Yadav were standing. Seeing the complainant and his brother, the accused persons started hurling filthy abuses to them, accused Pradeep pushed the complainant and also gave two slaps to his brother Prince Yadav. Complainant and his brother ran away from the spot and made a call to his brother Ajit. When Raghupat Yadav, father of complainant, Sampat Yadav, uncle of complainant, and Ajit Yadav, brother of complainant, came on the spot, the accused persons assaulted them also by means of rod, stick

etc. as a result of which they suffered injuries on head and other parts of body. Report of incident is lodged in the concerned police station based on which instant crime is registered against present applicant and others.

4. Mr. B.P. Sharma, learned counsel for applicant Arjun Raja Gupta in M.Cr.C. (A) No.577/2021 would submit that it is the complainant party who had called present applicant and others to their village for settlement of dispute where a free fight between both the parties took place in which present applicant along with others has also suffered injuries. There was no intention to cause any injury to the complainant or his family members, however, during the course of interaction, all of a sudden quarrel started in which Sampat Yadav & Ajit Yadav suffered simple injuries. Applicant also suffered injury on his head. He further submits that present applicant is pursuing his Diploma in Civil Engineering from Kalinga University, Raipur and if the protection under Section 438 of CrPC is not extended to him, his future will be ruined. He further submits that copy of counter FIR bearing No.32/21 registered against the complainant party for commission of offence punishable under Sections 147, 148, 149, 506, 323 & 307 of IPC (arising out of same incident) and also copy of document showing that applicant is pursuing his Diploma in Civil Engineering is placed on record along with Covering Memo dated 24.7.2021 & 26.7.2021 respectively.

He also submits that there is mention about death of

Rajendra Yadav in the case diary, but it is not on account of any injury suffered by him. He submits that as per post-mortem report, death was on account of cardiopulmonary failure due to massive thrombosis, but in the post-mortem report, the word used is 'unnatural death'. He further submits that Rajendra Yadav died on 29.03.2021 and the impugned order is passed on 15.4.2021. In the case diary produced before the Court below, there is no mention that death of Rajendra Yadav was on account of any injury suffered by him either internal or external. He also submits that charge-sheet has also been filed. There is not allegation of offence committed under Section 302 of IPC.

5. Mr. Jitendra Shrivastava, learned counsel for applicant Vijay Kumar Yadav in M.Cr.C. (A) No.689/2021 while adopting submissions of Mr. B.P. Sharma, learned counsel for applicant in M.Cr.C. (A) No.577/2021, added that the complainant, who suffered head injury in the incident, has not stated as to who caused head injury to him. Furthermore, the injuries suffered by Sampat Yadav & Ajit Yadav are simple in nature, however, in order to involve present applicant in severe offence, Section 307 of IPC is also added. Applicant is regular student of B.Com. in Government College, Rajpur and if he is arrested by police, then his whole career will be ruined.
6. Mr. Vimlesh Bajpai, learned State Counsel opposing the submissions made by learned counsel for the respective applicant submits that there are specific allegation against applicant Arjun of assault by means of rod. He submits that

Sampat and Ajit suffered grievous multiple injuries on head. Hence prima facie offence under Section 307 of IPC is made out against the applicants and they are not entitled for benefit under Section 438 of CrPC. However, on putting a specific query with regard to nature of injuries suffered by Sampat & Ajit, he submits that injuries have been reported to be simple in nature. He further submits that after receiving post-mortem report of deceased Rajendra Yadav, the police made query from the doctor with respect to cause of death and the doctor has replied that death of Rajendra Yadav was not due to any injury suffered by him, hence, the offence under Section 302 of IPC was not registered.

7. I have heard learned counsel for the parties.
8. Taking into consideration the nature of allegations, genesis of dispute between the parties and the fact that there was a free fight between the complainant party and accused party; both the parties have lodged FIR against each other; injuries suffered by Sampat Yadav & Ajit Yadav are stated to be simple in nature and further considering the fact that applicant Arjun Raja Gupta is doing Diploma in Civil Engineering, whereas applicant Vijay Kumar Yadav is student of B.Com., without commenting anything on the merits of case, I am of the view that present is a fit case where applicants should be granted anticipatory bail.
9. Accordingly, both the applications are allowed and it is directed that in the event of arrest of applicants **Arjun Raja Gupta** and

Vijay Kumar Yadav 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 Arresting 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 they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-