

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 968 of 2021**

1. Smt. Pinnu Bai Baghel W/o Shiv Kumar Baghel, Aged About 54 Years,
2. Mahendra Kumar Baghel S/o Shiv Kumar, Aged About 35 Years,
3. Smt. Dharamshila Baghel W/o Dilip Baghel, Aged About 28 Years,
4. Smt. Shanti Bai Baghel W/o Kanhaiya Baghel, Aged About 40 Years,
5. Shanta Bai Bhaghel W/o Shivdayal Baghel, Aged About 40 Years,
6. Ramesh Baghel S/o Najru Ram Baghel, Aged About 43 Years,
7. Devendra Baghel S/o Shiv Kumar, Aged About 30 Years,
8. Nanni Baghel W/o Ramesh Baghel, Aged About 40 Years,
9. Anjali Baghel W/o Devendra Baghel, Aged About 28 Years,
10. Smt. Kumari Bai Baghel W/o Mahendra Baghel, Aged About 31 Years,

All R/o Village Aghari Nawagaon, Ward No. 8, Dhamtari,
District - Dhamtari Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh Through - Police Station City Kotwali,
Dhamtari, District Dhamtari Chhattisgarh.

---- Non-applicant

For Applicants : Ms. Smita Jha, Advocate

For Non-applicant/State : Mr. Roshan Dubey, P.L.

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

Order on Board**18.08.2021**

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.291 of 2021, registered at Police Station City Kotwali, Dhamtari, District

Dhamtari (C.G.), for offence punishable under Sections 147, 186, 294, 353 of Indian Penal Code.

2. Case of the prosecution in brief, is that, on 27.06.2021, when employees of Municipal Corporation went on spot for leveling of the land in dispute, at that time, present applicants have obstructed the work. Thereafter again on 13.07.2021, at about 2.00 P.M., when employees of Municipal Corporation along with Police Officials went on spot and again started the work of leveling the fields by putting mud and garbage, present applicants again obstructed the work. They have abused in filthy language and have also assaulted them by means of wood and stick. Based on the written report, lodged by Sukhdeo Ram, Sub Engineer of Municipal Corporation, Dhamtari, instant crime was registered against the present applicants.
3. Ms. Smita Jha, learned counsel for the applicants would submit that husband of applicant No.1 is working as Kotwar, Government has initially allotted about 4.50 Acres land towards service land to grand father-in-law of applicant No.1. About 3.50 Acres of land was taken back by State Government for the purpose of constructing school building and playground. The applicants are in possession of about 1 Acre of land only, which is service land in view of service of husband of applicant No.1 as Kotwar. The Official of Municipal Corporation one day suddenly came to the place of incident and started throwing garbage and leveling agricultural field, on which, applicants have sown the crop of paddy, which was objected. She further submits that order passed

on 26.06.2021 by Collector mentioning that land admeasuring 1.6290 Acres of Khasra No.1532/1/12 was allotted by Collector for some other purpose without considering the purpose, for which, it was allotted, was challenged by husband of applicant No.1 by filing Writ Petition bearing WPC No.3015 of 2021. On the date of incident also, complainant has stated that order of Collector is to be challenged, as service land of Kotwar cannot be allotted for some other purpose, which is one of the basis of survival of family of Kotwar, but even then, Officials have not considered the request and were forcefully doing activities, in which, some dispute took place. After hearing the submission of counsel in writ petition, interim order of protecting the eviction of Shiv Kumar i.e. husband of applicant No.1 was passed on 28.07.2021.

4. Per contra, Roshan Dubey, learned Panel Lawyer representing the State opposing the submissions made by learned counsel for the applicants would submit that applicants have obstructed the complainant and other Officials in discharge of work being a Government servant. They have also abused and assaulted the employees present there, hence, applicants are not entitled for grant of benefit under Section 438 of Cr.P.C.
5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations against the present applicants, the manner, in which, alleged dispute has been taken place, order passed in WPC No.3015 of 2021 protecting the eviction of Shiv

Kumar, without commenting anything into the merits of the case, 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 be abide by the following conditions :-

(i) they shall make themselves 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