

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1084 of 2021**

1. Anil Kumar Sahu, S/o Mohan Lal Sahu, Aged About 50 Years,
2. Gulshan Kumar Sahu, S/o Anil Kumar Sahu, Aged About 18 Years,
3. Vikas Kumar Sahu, S/o Anil Kumar Sahu, Aged About 14 Years (Minor) Through Natural Guardian Anil Kumar Sahu, S/o Mohan Sahu,

All R/o Village Parsada Khurd, Police Station- Sakti, District- Janjgir Champa Chhattisgarh.

---- Applicants**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Sakti, District Janjgir Champa Chhattisgarh.

-----Non-applicant

For Applicants	: Mr. Awadh Tripathi, Advocate.
For Non-applicant- State	: Mr. B.P. Banjare, Dy. G.A.
For Complainant	: Mr. Ram Sajeevan, Advocate

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****10/09/2021**

1. Applicants have preferred this application under Section 438 of CrPC for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.239/2021 registered at Police Station Sakti, District Janjgir Champa (C.G.) for the offence punishable under Sections 294, 452, 506 & 34 of IPC.
2. As per the case of prosecution, on 08.08.2021 at about 8:00 PM, applicant No. 1, who is husband of present Sarpanch of Village Panchayat Parsada Khurd, along with his sons i.e. applicant No.2 & applicant No.3 entered into the house of the complainant abused him in filthy languages and also stated to him as to why he is making complaint with regard to the works and proceedings of the Village

Panchayat. Applicants have also threatened complainant saying that, if the complainant would again make complaints with regard to works and proceedings of the village Panchayat, they will kill him. Incident was reported by the complainant on the same day to the concerned Police Station in which he has also mentioned that the incident was witnessed by Hetram Sidar and Purusottam Sidar.

3. Shri Awadh Tripathi, learned counsel for the applicants would submit that applicants have been falsely implicated in this case and no such incident has taken place. He submits that the complainant is indulged in organizing gambling at his own house. This act of complainant was reported by the villagers and the Sarpach of Village Panchayat to the police on 06.02.2021 (Annexure A/3). He further submits that the complainant with ill-intention lodged a complaint through one Chamra Ram Kavar that he has not been paid his remuneration for cooking food to COVID-19 infected persons kept in covid centre. Chamra Ram Kavar has executed an affidavit stating that he is an illiterate person, his thumb impression was obtained on typed paper and he wants to withdraw his complaint. He further submits that name of witnesses as mentioned in FIR did not support the case of complainant, as no alleged incident had taken place. He further submits that applicant No. 1 is a practicing advocate, applicant No.2 is a student of law, pursuing his studies at Guru Ghasidas University and appellant No.3 is a student of Navodaya School, hence they may be enlarged on anticipatory bail.
4. On the other hand, Shri B.P. Banjare, learned State counsel opposes the submissions made by learned counsel for the applicants and submits that immediately after incident i.e. within two hours, complainant has lodged report in the concerned Police Station. There is an allegation in FIR that the applicants entered into the house of complainant, abused him and also threatened to kill him. He further submits that complainant's statement has been recorded U/s 161 of Cr.P.C. in which he stated that when applicants entered into the house, he objected to it, thereafter the applicants and complainant came out of the house where the applicants have abused and threatened complainant. Upon

putting specific query with regard to statements of the witnesses, as mentioned in the FIR, he read over statements of Hetram Sidar and Purusottam Sidar recorded U/s 161 of Cr.P.C. and submits that though these witnesses have stated that they have not seen the applicants entering into house of the complainant, but Purusottam Sidar has stated that the applicants have abused the complainant in the street in front of the house of the complainant. He submits that in view of material available in the case diary, applicants are not entitled for benefit under Section 438 of CrPC.

5. Shri Ram Sajeevan, learned counsel for complainant submits that applicant No. 1 being an advocate is an influential person. The complainant is not indulged in any illegal activity of gambling as submitted by learned counsel for the applicant. No criminal case has been registered against him at any police station. He submits that applicant No. 1. by misusing his post pressurized the witnesses, hence the witnesses have not supported the prosecution case. He submits that after lodging of complaint on 08.08.2021, applicant No.1 had abused and threatened the complainant again against which also complainant has lodged report in the concerned police station on 18.08.2021.
6. I have heard learned counsel for the respective parties.
7. Taking into consideration, the nature of allegations, facts and circumstances of the case and statements of the witnesses recorded U/s 161 of Cr.P.C., without commenting anything on merits of the case, I am inclined to allow the bail application.
8. Accordingly, application is allowed and it is directed that in the event of arrest of applicants in connection with crime in question (239/2021), 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 Arresting Officer. Applicants shall also abide by the following conditions:
 - (i) that the applicants shall make themselves available for

interrogation before the Investigation 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

R/-