

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1204 of 2021**

1. Balram Prasad Soni, s/o Shri Aditya Kumar Soni, aged about 63 years (wrongly mentioned as 55 years)
2. Urmila Soni, w/o Balram Prasad Soni, aged about 60 years (wrongly mentioned as 50 years)

All the above applicants are Caste – Sonar r/o Gram Juna Karkoli, PS Bhatgaon, Tahsil Bhayathan District- Surajpur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through the Station House Officer, Bhatgaon, District- Surajpur, (wrongly mentioned Korea in Order sheet of lower Court), Chhattisgarh

---- Respondent

For Applicants	: Shri BP Singh, Advocate
For Respondent/State	: Ms Anjali Singh Chouhan, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

29.09.2021

1. Applicants filed application under Section 438 of CrPC for grant of anticipatory bail as they are apprehending their arrest in connection with Crime No.94 of 2021 registered at Police Station Bhatgaon, District-Surajpur, Chhattisgarh for commission of offences punishable under Sections 294, 506, 323, 325, 307, read with 34 of IPC.
2. Case of the prosecution, in brief, is that, on 16.07.2021 at about 10 pm when complainant and her husband Samaylal were irrigating their agriculture fields, applicants along with Neelam Soni came there, started abusing and quarreling with Samaylal. Applicants and Neelam Soni assaulted Samaylal by means of Spade, due to which he suffered grievous injuries over his head and fracture on his left leg. Matter was reported to concerned Police Station on the next day morning, based upon which aforesaid crime was registered against applicants and co-accused Neelam Soni.

3. Applicants, apprehending their arrest, filed this anticipatory bail application after rejection of their application by the Court below.

4. Shri BP Singh, learned counsel for the applicants would submit that applicant-1 is practicing Advocate, having agriculture fields in his village. On the date of incident, dispute arose between the parties on account of irrigation of agriculture fields. Injured Samaylal in intoxicated condition, started abusing and caught hold of applicant-1 and put him down on the ground. When applicant-2 tried to intervene, Samaylal gave 2-3 slaps to her and torn her blouse. Neelam Soni, son of applicants, looking to situation, tried to intervene. Samaylal started assaulting him and in self defence, he reacted. In the scuffle, Samaylal suffered injuries on his person. There was no intention of applicants to cause any injury on the person of complainant nor they have caused any injury. Even otherwise, injured suffered only one injury on his head, as stated to be by means of Spade. He submits that Neelam Soni immediately after the incident, has lodged FIR with concerned Police Station making allegations against injured and his wife stating that he assaulted applicant-1 and also has torn blouse of applicant-2 upon which Neelam Soni reacted. FIR registered by Neelam Soni was prior one, than that of complainant herein Crime No.93 (Annexure A3). He submits that in view of allegations levelled against applicants and further, facts mentioned in FIR registered by co-accused Neelam Soni, applicants may be enlarged on bail as they are aged about 63 and 60 years.

5. On the other hand, Ms Anjali Singh Chouhan, learned counsel for the State, while opposing the submissions of learned counsel for the

applicants, submits that when complainant and her husband were irrigating agriculture fields in the night at about 10 pm, applicants along with co-accused Neelam Soni, quarreled with them and assaulted Samaylal by means of Spade, causing grievous injuries over his head and also fracture on his left leg. She submits that there are witnesses to the incident and read over statement of one of the eyewitnesses Shyam Bihari, recorded under Section 161 of CrPC.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against applicants, and the manner in which quarrel stated to be taken between the parties, Co-accused Neelam Soni lodged FIR against insured person, which is prior to the FIR got registered against applicants herein and further considering statement of Shyam Bihari, stated to be an eyewitness to the incident, who in his statement stated that it is Neelam Soni, who caused injury by means of Spade, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicants.

8. 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/- (Rupees twenty-five thousand) each with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicants shall also abide by the following conditions:

- a) That the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- b) 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 them from disclosing such facts to the Court or to any Police Officer;
- c) That the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) 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.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma