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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1311 of 2021**

Dhan Singh Miri S/o Shri Mukutram Miri, Aged About 51 Years, Occupation- Agriculturist, R/o Village- Katangpali (A) Police Station- Sariya, Tahsil- Baramkela District- Raigarh (C.G.).

---- Applicant

Versus

State of Chhattisgarh through- S.H.O., P.S.- Baramkela, District- Raigarh (C.G.).

---- Non-applicant

MCRCA No. 1349 of 2021

Bhuvaneshwar Khunte S/o Pyarilal Khunte, Aged About 51 Years, R/o Village Katangpali (A), Taluka Baramkela District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh through S.H.O., P.S. Baramkela District Raigarh Chhattisgarh.

---- Non-applicant

 For Applicants : Ms. Indira Tripathi, Advocate
 For Non-applicant/State : Mr. Vaibhav Singh, P.L.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****21.12.2021**

1. Since both the anticipatory bail applications arise out of same crime number, they are being heard and decided by the common order.
2. The applicants have preferred these first bail applications under Section 438 of the Cr.P.C. for grant of anticipatory bail, as they are apprehending their arrest in connection with Crime No.277 of 2021, registered at Police Station Baramkela, Raigarh (C.G.), for offence punishable under Section 306 read with Section 34 of Indian Penal Code.

3. Case of prosecution is that, on 02.08.2021, at about 3.00 - 4.00 P.M. Bairagi along with his wife, son, daughter-in-law and applicants was in the office of Tahsildar for getting his name mutated in revenue records on the land recorded in name of his father Bhojram Miri after his death. On the said date, deceased in office of Tahsildar took out bottle containing poisonous substance and stated that he will consume poison as applicants Bhuvaneshwar Khunte and Dhan Singh Miri along with Shiv Mangal Lahre have taken Rs.5 Lakhs from him for getting revenue records corrected and mutating his name in revenue records in place of his late father. Upon hearing words of late Bairagi, all persons present their including family members of Bairagi stated that do whatever you want and thereafter, Bairagi consumed poisonous substance. He was taken to hospital, but on the way he died. Merg was intimidated by one Bhaskar Kurre. Based on the statements of wife, son and daughter-in-law of deceased, offence against applicants as well as Madhav Miri and one Shiv Mangal Lahre was registered.
4. Ms. Indira Tripathi, learned counsel for the applicants would submit that applicants have not committed any offence as alleged against them. She submits that even applicants have not taken such a huge amount for mutation as alleged against them. She contended that even if, allegations levelled against the applicants is taken as it is, then also offence under Section 306 of IPC would not be attracted. It is further pointed out that in the statement, it has come that it is the co-accused Madhav Miri who has given advance of Rs.5 Lakhs for purchasing immovable property from Bairagi was harassing and threatening for executing the sale deed

or return of money and there is no allegation of harassment, ill-treatment or threatening by present applicants.

5. Per contra, Mr. Vaibhav Singh, P.L. for the State opposing the submissions made by learned counsel for the applicants, would submit that in case diary statements of wife, son, daughter-in-law of deceased, there are specific allegations against applicants that applicants along with one Shiv Mangal Lahre (co-accused) obtained Rs. 5 Lakhs from Bairagi for mutating his name in revenue records, but even after lapse of long time, his name could not be mutated and therefore, deceased consumed poison in front of all including present applicants, hence, there is *prima facie* involvement of applicants in commission of crime.
6. I have heard learned counsel for the parties.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, submissions of learned counsel for the State based on material available in case diary that allegation against the applicants is that they have obtained Rs.5 Lakhs from deceased Bairagi for getting his name mutated in revenue records in place of his late father Bhojram Miri, but applicants could not able to get his name mutated and further they have denied acceptance of any money from Bairagi, further considering entirety of statements of Kheer Bai Miri (wife of deceased), Dataram Miri, Ranjeet alias Radhe Miri, order of mutation is to be passed by competent authority, without commenting anything into the merits of the case, I am inclined to release the present applicants on anticipatory bail.

8. Accordingly, bail applications (MCRCA Nos.1311 of 2021 and 1349 of 2021) are 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 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