

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 1330 of 2021**

1. Govind Ram S/o Ratan Uraon Aged About 55 Years Caste Uraon, Occupation President, Municipal Council, Balrampur, District Balrampur Ramanujganj (C.G.)
2. Naveen Gupta S/o Tilak Dev Gupta Aged About 40 Years Occupation Vice President, Municipal Council, Balrampur, P.S. Balrampur, District Balrampur Ramanujganj (C.G.)
3. Praveen Gupta S/o Banshidhar Gupta Aged About 34 Years Occupation Parshad, Municipal Council, Balrampur, R/o Ward No. 09, Balrampur P.S. Balrampur, District Balrampur Ramanujganj (C.G.)
4. Sanjeet Singh S/o Ashok Singh Aged About 32 Years Occupation Parshad, Municipal Council, Balrampur, R/o Ward No. 01 Balrampur, P.S. Balrampur District Balrampur Ramanujganj (C.G.)
5. Dilip Soni S/o Sitaram Soni Aged About 44 Years Occupation Parshad, Municipal Council, Balrampur, P.S. Balrampur, District Balrampur Ramanujganj (C.G.), District : Balrampur, Chhattisgarh
6. Amit Gupta @ Riki Gupta S/o Mahesh Gupta Aged About 29 Years Occupation Parshad Municipal Council, Balrampur, R/o Ward No. 06, Balrampur, P.S. Balrampur, District Balrampur Ramanujganj (CG)
7. Vinay Yadav S/o Late Jagdish Yadav Aged About 48 Years Occupation Parshad, Municipal Council, Balrampur, R/o Ward No. 12, Balrampur, P.S. Balrampur, District Balrampur Ramanujganj (C.G.)
8. Sakal Ram S/o Deva Ekka Aged About 68 Years Occupation Parshad, Municipal Council, Balrampur, R/o Ward No.08, Balrampur, P.S. Balrampur District Balrampur-Ramanujganj (CG)

---- Applicants**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Balrampur, District Balrampur Ramanujganj (C.G.)

---- Non-applicant**MCRCA No. 1371 of 2021**

- Sudeshwar Tiwari S/o Late Ramprasad Tiwari Aged About 55 Years R/o Ward No. 15, Police Line Road, Balrampur , District Balrampur Ramanujganj (CG)

---- Applicant

Versus

- State of Chhattisgarh Through Station In Charge, Balrampur, District Balrampur Ramanujganj Chhattisgarh.

---- Non-applicant

MCRCA No. 1501 of 2021

1. Basant Singh S/o Late Ravindra Pratap Singh Aged About 48 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
2. Ajay Gupta S/o Chandrika Prasad Gupta Aged About 46 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
3. Jitendra Shrivastava S/o Late Bramhamurti Shrivastava Aged About 43 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
4. Shankar Pasi @Shankar Das S/o Rajendra Das Aged About 25 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
5. Roshan Chaurasiya S/o Lakhan Chaurasiya Aged About 33 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
6. Rakesh Singh S/o Vinod Gupta Aged About 33 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
7. Amit Gupta S/o Vinod Gupta Aged About 35 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
8. Ashok Singh S/o Late Ravindra Pratap Singh Aged About 45 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
9. Gautam Singh S/o Jagdish Singh Aged About 35 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
10. Manish Singh@Pappu S/o Late Ravindra Pratap Singh Aged About 38 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh
11. Pushpendra Singh @Bittu S/o Suresh Singh Aged About 30 Years R/o Balrampur, P.S. Balrampur, District Balrampur Ramanujganj Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Balrampur, District Balrampur Ramanujganj (CG)

---- Non-applicant

M.Cr.C. (A) No.1330/2021 & 1501/2021

For Applicants : Mr. Kishore Bhaduri, Sr. Advocate
with Mr. CJK Rao, Mr. A.N. Pandey,
Mr. Priyanshu Gupta, Advocates
For Non-applicant : Mr. Sameer Oraon, Government
Advocate with Mr. Sudhir Sahu, Panel
Lawyer
For Objector : Mr. A.K. Prasad, Advocate

&

M.Cr.C. (A) No.1371/2021

For Applicants : Mr. B.N. Nande, Advocate
For Non-applicant : Mr. Sameer Oraon, Government
Advocate with Mr. Sudhir Sahu, Panel
Lawyer
For Objector : Mr. A.K. Prasad, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

08/12/2021

1. As above anticipatory bail applications arise out of same crime number, they are being heard together and decided by this common order.
2. These are first applications under Section 438 of CrPC for grant of anticipatory bail to applicants as they apprehend their arrest in connection with Crime No.175/2021 registered at Police Station Balrampur, District Balrampur Ramanujganj (CG) for commission of offence punishable under Sections 147, 149, 186, 353, 332, 341, 451, 458, 394, 294, 506 of the Indian Penal Code.
3. Case of prosecution, in brief, is that on 21.9.2021 applicants, who are elected members of Municipal Council, Balrampur and residents of Balrampur respectively, were agitating in front of office of Municipal Council, Balrampur against the acts of complainant, who is posted as Chief Municipal Officer,

Municipal Council Balrampur. In the evening at about 5-6:00 p.m., Sub-Divisional Magistrate, Balrampur came on spot and tried to intervene between elected members of Municipal Council, Balrampur and Chief Municipal Officer, Municipal Council Balrampur. At about 8:00 p.m. when complainant along with his friend Shubhankar Pandey was going out from office in car of Shubhankar Pandey, applicants stopped their way; abused complainant saying as to how he is taking away with him records of office of Municipal Council. Complainant and his friend Shubhankar Pandey were manhandled and assaulted by applicants. They have also threatened complainant to his life. Thereafter, applicants along with complainant entered into office of municipal council, made interpolation in files of municipal council and took away some files with them. They also torn pages of register. Incident was reported to police station on 21.9.2021 itself, based on which FIR was registered against applicants for commission of offences as mentioned above.

4. Mr. Kishore Bhaduri, learned Senior Counsel for the applicants would submit that complainant, who is posted as Chief Municipal Officer, Municipal Council, Balrampur, was not discharging his duties fairly, impartially and in the interest of municipal council, he was working under the direction of some politicians, therefore, the Councillors of Municipal Council, Balrampur were raising objections against him. On the alleged date of incident, looking to manner of working of complainant, applicants were agitating in front of gate of office of municipal

council since morning. The Sub Divisional Magistrate tried to intervene situation and thereafter returned back. In the night, applicants saw complainant coming out from his office in a private car of one Shubhankar Pandey. Applicants under suspicion that looking to agitation and issue projected and raised by them, complainant is making an attempt to move out important files from the office, they intercepted car on which complainant was travelling with his friend. On that place, some dispute took place between them. Applicants have not committed any offence as alleged against them as they did not enter into office of municipal council at relevant point of time or at any point of time thereafter as mentioned in complainant / FIR registered against them. It is also argued that serious offences were reported by complainant to concerned police station immediately after alleged incident, but police did not conduct any enquiry. In fact, no incident as alleged in complaint ever occurred; no report was lodged on 21.9.2021; report was lodged only in the night of 22.9.2021 because the Councillors of Municipal Council, Balrampur in MIC meeting have passed resolution against complainant under Resolution No.19 which made complainant to lodge false report against them. It is also pointed out that even on 22.9.2021 no investigation was done by police in respect of report stated to be lodged in night intervening 21st & 22nd September, 2021, which itself creates suspicion upon nature of allegations levelled against applicants. No proceeding is recorded by police either on 21.9.2021 or 22.9.2021 on spot. He also

submits that applicant No.1-Govind Ram in M.Cr.C. No.1330/2021, President of Municipal Council, Balrampur, lodged report in police station on 21.9.2021 making allegations that complainant and his friend were taking away official records with them. When no action was taken by police on the complaint of applicant No.1, he filed writ petition (criminal) bearing WPCR No.783/2021 before the High Court, which is finally heard and reserved for orders. He also submits that contents of FIR registered against applicants would show that FIR was registered on 23.9.2021 by Inspector of police station wherein it is mentioned that written report was received by police in the night of 22.9.2021, hence FIR was registered on 23.9.2021. From the contents of FIR it is clear that complainant has not lodged any written report on 21.9.2021 against applicants for commission of offence in question. Applicants are supporters of a particular political leader; they have been falsely implicated by complainant who is working as per direction of another political leader. False allegations have been levelled against applicants with ulterior motive, hence pending trial applicants may be extended benefit of anticipatory bail.

5. Mr. Sameer Oraon, learned State Counsel for the State opposes the submissions of learned Senior Counsel for applicants and submits that applicants have taken law in their own hands. They were raising agitation since morning on 21.9.2021. Looking to their aggressiveness, Sub-Divisional Magistrate came on spot and tried to intervene. After

discharging official duties, when complainant was returning home along with his friend, applicants stopped and surrounded them; thereafter manhandled, abused and assaulted them. Applicants, who were 20 in numbers, forcibly brought back complainant to municipal council's office, played mischief with official records, torn some pages of inward & outwards register. Entire incident was recorded in CCTV, which is also part of case diary. Applicants have also taken away some important files with them, which are still in their possession. Complainant immediately after incident lodged written report in concerned police station, hence it cannot be said that complaint lodged against applicants is false and frivolous. Offences committed by applicants are serious in nature as they have deterred a public servant from discharging his official duty. They have not only destroyed but also taken away some government records with them. He pointed out that in the report date of receipt of complaint is mentioned as '21.9.2021'. Fact of receipt of written report is mentioned by police in roznamchasanha dated 21.9.2021, which makes submission of learned Senior Counsel for applicants that false and frivolous case is registered against applicants, to be incorrect. During the course of investigation, police seized inward & outward register of which pages were torn by applicants. Print out of photograph recorded in CCTV is also available in case diary. He further submits that complainant was sent for medico-legal examination and the doctor, who examined him, noticed swelling on his face and

chest. There are criminal antecedents of applicant Basant Singh, Amit Gupta, Roshan Chourasia, Praveen Gupta, Naveen Gupta, Rakesh Singh & Jitendra Shrivastava. He read out nature of offences committed by aforementioned applicants which are of the year 2004 i.e. offence under Sections 294, 506, 323 of IPC and Isthgasha. Apart from other crimes, offence under Sections 452, 294, 506, 323 of IPC is also registered against applicant Anil Gupta. Hence, looking to nature of crime and the manner in which it was committed by applicants, previous criminal record of applicants, they are not entitled to benefit of anticipatory bail.

6. Mr. A.K. Prasad, learned counsel for complainant/ objector would submit that applicants have committed serious offence as they have played mischief with official records kept in the office of Municipal Council, Balrampur. Complainant, who is a government servant, had no other option but to lodge report of the acts of applicants, which he lodged on the date of incident itself i.e. 21.9.2021. He also pointed out that submission of learned Senior Counsel that FIR was lodged on 22.9.2021 is not correct because from FIR itself it is apparent that Police Inspector registered FIR in the night of 22.9.2021, which means complaint was registered in night intervening 21st and 22nd September, 2021. He also pointed out that police objected grant of anticipatory bail to applicants before the Court below stating that when vehicle of complainant in which he and his friend were travelling was stopped by applicants, at that time other persons including one Minister came on spot to

verify whether allegation levelled against complainant of carrying official files with him is correct or not, and the same was not found to be correct. He submits that after lodgement of report by complainant, applicants are continuously pressuring complainant to withdraw his complaint else threatening him for his life, regarding which complainant has lodged separate report. On being asked by the Court about the date on which report is lodged by complainant, learned counsel for objector submits that at present he is not in possession of copy of said complaint, therefore, he cannot tell exact date.

7. At this stage, Mr. Kishore Bhaduri, learned Senior Counsel for applicants submits that even if submissions of learned counsel for State are taken to be correct that complainant promptly lodged report on 21.9.2021 itself, then also it creates suspicion on the conduct of police, who did not conduct any investigation immediately after receipt of complaint of such serious nature of crime by government official posted in Municipal Council Balrampur. As there was no investigation, therefore, there was no seizure of any document on 22.9.2021. Hence, also there is doubt of happening of any incident, as alleged.

8. Upon query, Mr. Sameer Oraon, learned Government Advocate submits that as per case diary, police seized documents from the office of Municipal Council Balrampur on 25.9.2021. Presence of applicants in the office of municipal council is apparent from the photographs available in case

diary which contains date and time. Upon asking, he submits that CCTV footages and photographs are dated 21.9.2021 at about 7:00 p.m.

9. I have heard learned counsel for parties.
10. Applicants are elected members of Municipal Council, Balrampur and residents of Balrampur respectively. Contents of written report reveals that while complainant was returning home from office at about 8:00 p.m., at that time he was intercepted by applicants; after some time he was brought back to office by applicants and there applicants played mischief with official records. Applicants took some official files with them. However, there is no material in case diary to show that applicants entered into office of municipal council at 8:00 p.m. when it is argued that office is fitted with CCTV camera. Seizure of documents from the office of municipal council was done only on 25.9.2021 for alleged incident dated 21.9.2021 reported in police station on 21.9.2021 itself i.e. of inward & outward register of which applicants have allegedly torn pages at the time alleged commission of crime. Seizure of register/ record only on 25.9.2021 casts shadow on the nature of allegation levelled against applicants when such serious allegation is levelled, if at all it happened on 21.9.2021.
11. Considering overall facts and circumstances of case and ruling of Hon'ble Supreme Court in **Sushila Agrawal vs. NCT of Delhi** reported in **(2020) 5 SCC 1**, I am of the view that present is a fit case where applicants deserve benefit of

anticipatory bail under Section 438 of CrPC.

12. Accordingly, above anticipatory bail applications are allowed and it is directed that in the event of arrest of applicants in connection with 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. Applicants shall also abide by following conditions:

- (i) that they shall make themselves available for interrogation before 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 trial Court on each and every date given to them by said Court till disposal of trial.

Sd/-
(Parth Prateem Sahu)
Judge

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