

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 614 of 2016

1. Smt Rita Devi Upadhyay W/O Late Shri Krishna Upadhyay Aged About 57 Years R/O 545, Sadak No. 6 - B, Shanti Nagar Bhilai, Tahsil & District Durg, Chhattisgarh.
2. Nitin Kumar Upadhyay S/O Late Shri Krishna Upadhyay Aged About 26 Years R/O 545, Sadak No. 6 - B, Shanti Nagar Bhilai, Tahsil & District Durg, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Out Post Baishali Nagar Chowki, Police Station Supela, District Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. R.K. Sharma, Advocate
For Respondent/State	:	Mr. Neeraj Kumar Jain, Govt. Advocate.
For objector	:	Mr. Mohd. Ishaue Khan, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03-08-2016

1. The applicants have preferred the instant bail application under Section 438 of the Code of Criminal Procedure for grant of anticipatory apprehending their arrest in connection with Crime No. 493 of 2016 registered at Outpost Baishali Nagar howki, PS Supela, District Durg (CG) for the offence punishable under Section 195(A) of the IPC and Section 5 of the CG Tonhi Prtatarna Niwaran Adhiniyam.
2. Case of the prosecution, in brief, is that on 26-5-2016 a report was made by the complainant Smt. Gayatri Upadhyay that the applicants who are mother-in-law and brother-in-law used to call her as Tonhi, they treated her with cruelty and outraged her modesty and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that inter se dispute is existing between the parties, therefore, false allegations have been made against the applicants. Earlier also on a complaint made by the complainant Smt. Gayatri Upadhyay a case under Section 498-A of IPC and Sections 3 & 4 of the Dowry Prohibition Act is filed against the applicants which is pending and another case under Section 294 of the IPC is also filed which is pending. Therefore, in order to pressurise the applicants, report has been made. He would further submit that the applicants shall co-operate in investigation and they are not likely to abscond, therefore, the applicants may be extended the benefit of anticipatory bail.
4. Per contra, learned State counsel opposes the bail application.
5. Learned counsel for the objector submits that the son of the applicant has stated against the applicant.
6. I have heard learned counsel for the parties, perused the case diary and documents.
7. Perused the statement of the victim in which it is stated that from the year 2010 she has been stated to be called as Tonhi and the report is made in the year 2016. Case diary also shows that two other cases are registered in 2015 under Sections 498-A read with Section 3 & 4 of the Dowry Prohibition Act and under Section 294 of the IPC, however, the said allegations were not made during such earlier occasion and first time after 2010 the report is made under the Section. The applicants are in close relations as mother-in-law and brother-in-law.
8. Taking into consideration the facts and circumstances of the case, nature of allegations leveled against the applicants, back ground of the case and considering such time lapse and fact that the applicants have

not obstructed the investigation, I am inclined to extend the benefit of anticipatory bail to the applicants.

9. Accordingly, the bail application filed under Section 438 of the Cr.P.C., 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 bail by the officer arresting them on each of them executing a personal bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:

(i)	that the applicants shall make themselves available for interrogation before the Investigating 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)	the applicants shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju