

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1229 of 2015

1. Avdhesh Shroti, aged about 25 years, S/o. Ashok Kumar Sharma, Resident of Water Works Colony, Q. No. F-7, Hathrs, District Hathras (U.P.)
2. Ashok Kumar Sharma, Aged about 50 years, S/o. Late Onkar Prasad Sharma, Resident of Water Works Colony Q. No. F-7, Hathrs, District Hathras (U.P.)
3. Smt. Urmila Sharma, Aged about 45 years, W/o. of Ashok Kumar Sharma, resident of Water Works Colony Q. No. F-7, Hathrs, District Hathras (U.P.)
4. Ku. Madhuri Sharma, Aged about 20 years, D/o. Ashok Kumar Sharma, resident of Water Works Colony Q. No. F-7, Hathrs, District Hathras (U.P.)

---- Applicants

Versus

State of Chhattisgarh Through – through the incharge of Mahila Police Station Ambikapur, District Suruguja Chhattisgarh

---- Respondent

For Applicants	:-	Mr. Vishnu Koshta, Advocate
For Respondent/ State	:-	Mr. Sumit Jhanwar, Panel Lawyer for the State.
For Objector	:-	Mr. Sunil Otvani, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

14/03/2016

1. Apprehending arrest in connection with the Crime No. 6/2015, registered at Police Station- Mahila Police Station- Ambikapur (C.G.) for the offence punishable under sections 313 of Indian Penal Code, the applicants have filed this application under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. Case of the prosecution, in brief, is that the complainant Smt. Sakshi Shroti, was married to the applicant No. 1 Avdhesh Shroti, in the month of November, 2012. Subsequently, after the marriage, the complainant joined her at matrimonial home wherein she was subjected to torture. Thereafter, when she became pregnant, the applicants being the in-laws never wanted baby as such she was given some medicine, without her knowledge the abortion was carried out. Subsequently, the report were made alleging that the cruelty meted out to the complainant along-with report of forceful abortion.

3. Counsel for the applicants would submit that initially the case was registered against these applicants under section 498 A of IPC wherein the Court below after evaluating the evidence and the statement of in-laws of the complainant had extended the benefit of bail to the applicants under section 498 A of IPC. Thereafter, again these applicants have been inculpated under section 313 of IPC. Counsel for the applicants further submits that the complainant was having complicated pregnancy and such on the advice of doctor she was aborted to save her life and for which she was treated by different doctors. It is further contended that though the abortion is alleged to have done in the year 2013 and the report for abortion was made for the first time in the year 2015, therefore, enormous delay was caused to lodge the report. He further submits that the medicine were given as per the advice of doctors and the applicants have not separately given any medicine to the complainant, therefore, the applicants may be given the benefit of anticipatory bail.

4. Learned State as well as counsel for the objector vehemently opposes the prayer for grant of anticipatory bail and submits that some medicine administered to the complainant against her will and she was aborted. However, without her knowledge the termination of pregnancy took place, therefore,

considering the facts of the case, the applicants should not be given the benefit of anticipatory bail.

5. Perusal of the statement and the case diary would show that admittedly the applicants have been enlarged on bail by the Court below under section 498 A of IPC. Subsequently, the matter is being investigated under section 313 of IPC, in the written report general allegations have been made against the applicants and the allegation has been directly attributed to Smt. Urmila Sharma, mother in law, the applicant No. 3 that she had administered some medicine for abortion. Perusal of the copy of report dated 02.11.2013 which is on record and the another report dated 29.06.2015 and the statement of the complainant would also shows that the allegation has been attributed to the mother in law and the general allegations have been made against the other applicants. Taking such statement and the period of time, this Court is of the opinion that the present is a fit case, where the applicant No. 1,2, and 4 should be enlarged on anticipatory bail. However, in respect of applicant No. 3, since, there is specific allegation has been made against the applicant No.3, therefore, this court is not inclined to grant anticipatory bail of applicant No. 3.

6. Accordingly, the anticipatory bail application of applicant No. 1 **Avdhesh Shroti**, Applicant No. 2- **Ashok Kumar Sharma** and Applicant No. 4 **Ku. Madhuri Sharma** are allowed and the bail application of applicant No. 3 **Smt. Urmila Sharma** is rejected.

7. Since the anticipatory bail application of applicant No. 1 **Avdhesh Shroti**, Applicant No. 2- **Ashok Kumar Sharma** and Applicant No. 4 **Ku. Madhuri Sharma** are allowed and it is directed that in the event of arrest of the applicants No. 1,2, and 4 in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety each 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 No. 1,2 and 4 shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that the applicants No. 1,2 and 4 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) that the applicants No. 1,2 and 4 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicants No. 1, 2 and 4 shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Goutam Bhaduri)
JUDGE