

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1087 of 2016

1. Harishankar Jaiswal S/o Dheersay Jaiswal Aged About 30 Years R/o Village - Lodhiya, Police Station Kharsia, District Raigarh, Civil & Revenue District Raigarh Chhattisgarh
2. Chudamani Jaiswal S/o Ram Kumar Jaiswal Aged About 28 Years R/o Village - Lodhiya, Police Station Kharsia, District Raigarh, Civil & Revenue District Raigarh Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through Police Station - Kharsia, District Raigarh Chhattisgarh

---- **Respondent**

For Applicants	:	Mr. M.K. Sinha, Advocate
For Respondent/State	:	Mr. U.K.S. Chandel, Panel Lawyer
For Obector	:	Mr. Abhishek Saraf, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23-12-2016

1. Apprehending arrest in connection with Crime No. 309 of 2016 registered at Police Station Kharsia, District Raigarh (CG) for offence punishable under Sections 294, 506, 342, 323, 365/34 of the IPC, the applicants have preferred the bail application under Section 438 of the Cr.P.C., for grant of anticipatory bail.
2. As per case of the prosecution, a report was made by the complainant Badrika Sahu that on 31-7-2016 he had raised objection about playing of gambling and as such being enraged by that he was kidnapped by the present applicants and was kept in captivity and thereafter he was assaulted and thereby the aforesaid offence has been committed.
3. Learned counsel appearing for the applicants would submit that the applicants have been falsely implicated in this case, initially the applicants

had lodged report against the complainant and his family on the same date wherein offence has been registered under Sections 354 and 452 of IPC against the applicant and his family and in order to counter, some false allegations have been leveled, therefore, considering all the facts and circumstances of the case, benefit of Section 438 of the Cr.P.C., may be extended to the present applicants.

4. Learned State counsel opposes the prayer for grant of anticipatory bail and would submit that total 11 cases are under Sections of IPC and Cr.P.C., are registered against applicant No.1.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statement of the victim and medical report which would show that the complainant appears to be examined on 31-7-2016 on the same day.
7. Taking into consideration all the facts and circumstances of the case, nature of allegations and degree of offence, the evidence available against the applicants and further considering the statement of the victim and medical report and also the fact that 11 cases are to the credit of the applicant No.1, I am of the considered opinion, *prima facie* that it is not a fit case where benefit of Section 438 of Cr.P.C., can be extended to the present applicants.
8. Accordingly, the application filed under Section 438 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-

(Goutam Bhaduri)
Judge

Raju