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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 135 of 2017**

1. Arundhati Raj D/o Nehru Raj, Aged About 26 Years R/o Badi Bazar, Post Office And Police Station- Chirmiri, District- Koriya, Chhattisgrh.
2. Titiksha Raj D/o Nehru Raj, Aged About 24 Years R/o Badi Bazar, Post Office And Police Station- Chirmiri, District- Koriya, Chhattisgarh.
3. Smt. Kranti Raj, W/o Nehru Raj Aged About 47 Years R/o Badi Bazar, Post Office And Police Station- Chirmiri, District- Koriya, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Offecer, Police Station - Chirmiri District- Koriya, Chhattisgarh.

---- Respondent

For the Applicants : Shri Shivendu Pandya, Advocate.
For the Respondent/State : Shri U.K.S. Chandel, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.12.2017**

1. At the outset, learned counsel for the applicants submits that applicants No.1 and 3 have been arrested and the application on their behalf has become infructuous.
2. Accordingly, the bail application on behalf of applicants No.1 and 3 is dismissed as having become infructuous.
3. Heard on application in respect of applicant No.2 – Titiksha Raj under Section 438 of the Code of Criminal Procedure, 1973.
4. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to applicant No.2 – Titiksha Raj who is apprehending arrest in connection with Crime No. 92 of

2016, registered at Police Station – Chirmiri, District – Koriya, Chhattisgarh for the offence punishable under Sections 147, 148, 294, 506, 323 and 315 of the Indian Penal Code.

5. It is submitted by counsel for the applicants that applicant No.2 has been falsely implicated in this case. Applicant No.2 – Titiksha Raj is a student of nursing and on the date of incident she was present in the Gracious College of Nursing situated at Abhanpur, District Raipur. The main allegation is against co-accused - Deepak and Nehru Raj about assaulting the injured Deepanjali Raj on her abdomen which caused miscarriage of her pregnancy and rest of the offences which are registered are bailable in nature and the present applicant had no role to play in the commission of the said offences. Hence, it is prayed that applicant No.2 may be benefited with grant of anticipatory bail.

6. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that although the name of the applicant is not reflected in the FIR but she has been named by the witnesses in their statements under Sections 161 and 164 of the Cr.P.C., stating that she had been an active party in the assault against the complainant and others. Hence, applicant No.2 is not entitled for grant of anticipatory bail.

7. Heard counsel for both the parties and perused the case diary.

8. The applicant and the complainant party are the members of the same family tree and they had a dispute about the housing property. On the date

of incident, the accused/ applicant party formed an unlawful assembly, armed with some weapons abused and threatened the complainant party and thereafter, assaulted them causing injuries to the complainant and other persons. One of the accused – Deepak assaulted injured Deepanjali Raj on her abdomen because of which the miscarriage of her pregnancy occurred. The FIR has been lodged and the charge-sheet has also been filed.

9. Considering the submissions and taking into consideration the fact that the applicant had not been an active party in the said cause i.e. miscarriage of injured Deepanjali Raj and also she has a ground to prove her *alibi* before the trial Court, I am of the considered view that applicant No.2 deserves to be released on anticipatory bail.

10. Accordingly, the anticipatory bail application of applicant No.2 – Titiksha Raj is allowed and it is directed that in the event of arrest of applicant No.2 in connection with the aforesaid offence, she shall be released on bail by the Officer arresting her on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. She shall also abide by the following conditions:

- '(i) that applicant No.2 shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that applicant No.2 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 her from disclosing such facts to the Court or to any police officer;

- (iii) that applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant No.2 shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.
- (v) The trial Court shall not be bound by any of the observations made in this order while deciding the case.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge