

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 423 of 2017**

1. Shri Omshankar Mishra S/o Shri Lalta Prasad Mishra, Aged About 58 Years R/o Quarter No. 32/a, E. Pocket, Maroda Sector, Bhilai, Distt. Durg, Chhattisgarh
2. Smt. Kusum Mishra W/o Shri Omshankar Mishra, Aged About 50 Years R/o Quarter No. 32/a, E.Pocket, Maroda Sector, Bhilai, District Durg, Chhattisgarh
3. Shri Gourav Mishra S/o Shri Omshankar Mishra, Aged About 27 Years R/o Quarter No. 32/a, E.Pocket, Maroda Sector, Bhilai, District Durg, Chhattisgarh
4. Shri Lalta Prasad Mishra S/o Late Narmada Prasad Mishra, Aged About 78 Years R/o Village Khudi Kapura, Post Asardiya, Police Station Saidabad, Allahabad (U.P.)

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Tikrapara, Raipur, District Raipur, Chhattisgarh

---- Non-applicant

For Applicants:	MS. Fouzia Mirza, Advocate
For State:	Mr. Lav Sahrma, Panel Lawyer
for Objector:	Mr. J.K. Gupta, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****15.06.2017**

1. Apprehending arrest in connection with Crime No. 229/2017 registered at Police Station- Tikrapara, Raipur (C.G.), for offence punishable under Sections 498A, 34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, the applicants have preferred this application for grant of anticipatory bail.
2. The applicant No. 1 is the father-in-law, Applicant No.2 is mother-in-law and Applicant No.3 is the brother-in-law of the Complainant.

Applicant No.4 is the grandfather of the husband of the Complainant. The marriage of the Complainant took place with the son of the Applicants No.1 & 2 namely Dheeraj Mishhra in November, 2015. Immediately after the marriage, the relationship appears to have got strained. The Complainant after staying for about 15 days at the matrimonial home i.e. where Applicants No. 1, 2 & 3 were residing, she left for Bombay with her husband where he was employed. Thereafter staying for about 3 months, because of the strained relationship between the two, the complainant left the company of the husband and started living separately at her maternal home since March, 2016 onwards. It is in the November, 2016 that for the first time the Complainant has lodged the report against the present applicants alleging cruelty, ill-treatment and harassment on account of demand of dowry.

3. Learned Counsel for the Applicants submits that it is the case where they have been falsely implicated to the extent that the Complainant in the instant case has barely stayed at her matrimonial home just about 15 days. Thereafter she left with her husband for Bombay where she lived with him for about 3 months and thereafter she straightaway went to her maternal home. There is no occasion for the present Applicants to subject her to ill-treatment and harassment. It is also the contention of the Applicants that Applicant No.4 was not residing at the matrimonial home at that relevant point of time, who is person aged about 78 years. It is further alleged that it is the case where the Complainant did not want to lead a married life with her husband. Because of this relationship between the two got strained and subsequently she voluntarily left her husband in March, 2016. She further submits that though the Complainant had left in March, 2016 she for the first time has lodged complaint in November, 2016 i.e. much after

husband having filed Section 9 application before the Court in June, 2016. Thus, learned Counsel for the Applicants prays for grant of anticipatory bail to the Applicants.

4. Learned State Counsel as well as the learned Counsel for the objector oppose the bail application on the ground that there are serious allegations leveled against the present Applicants. From the statement of the Complainant it reveals that there are allegations of cruelty, assault and ill-treatment on account of demand of dowry on part of the present applicants and also her husband.
5. Taking into consideration the peculiar facts and circumstances of the case, particularly the short duration of stay of the complainant with the present Applicants and that the fact that she having left the company of her husband in march, 2016 and having made complaint for the first time after about more than 7 months itself gives great element of doubt on the statement of the complainant.
6. All these aforesaid conditions prima facie make it a strong case for grant of anticipatory bail particularly keeping in mind the judgment of the Hon'ble Supreme Court in *Arnesh Kumar v. State of Bihar and Another* [(2014) 8 SCC 273].
7. Accordingly, the MCRCA is allowed.
8. 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 executing a personal bond in sum of Rs.25,000/- each with one 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) that the Applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

(P. Sam Koshy)
V. JUDGE