

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 471 of 2017

1. Kirti Vilas Sharma S/o Late Shri Chandulal Sharma, Aged About 56 Years, Occupation : Principal, R/o Village Arvind, Than Navagarh, District- Janjgir Champa, Chhattisgarh
2. Smt. Kiran Lata Sharma W/o Kirti Vilas Sharma, Aged About 50 Years, Occupation: Upper Division Teacher, R/o Village Arvind, Than Navagarh, District- Janjgir Champa, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station Incharge, Police Station- Navagarh, District- Janjgir Champa, Chhattisgarh

---- Non-applicant

For Applicants – Shri Arvind Shrivastava, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the applicants are apprehending their arrest in connection with Crime No.87/2017 registered at Police Station Navagarh, District Janjgir Champa, C.G. for the offence under Section 506, 323, 354/34 of the IPC. Learned counsel for the applicants would further submit that applicant No.1 is Head Master working in a Govt. Middle School, applicant No.2 is Upper Division Teacher working in a Govt. Middle School, they are aged about 56 years and 50 years respectively. Applicant No.1 Kirti Vilas Sharma are three brothers, Bhuvaneshwar Prasad Sharma, husband of the complainant and Ved Prakash Sharma. As per the allegation, on 14-05-2017 the wife of elder brother of applicant No.1 namely Bhuvaneshwar Sharma came to the house of the applicants. It is alleged that for the sake of demand of division of immovable property and partition both the applicants assaulted the complainant, also applicant No.1 used criminal force to outrage the modesty and also gave threat to the said complainant.
3. Learned counsel for the applicants would further submit that husband of

the complainant namely Bhuvaneshwar Prasad Sharma, i.e., real brother of applicant No.1 on the same date lodged a counter report against her own wife that she intends to file a false and fabricated report, the said report if at all filed is false and fabricated. It goes to show that elderly husband aged about 58 years is not supported the contents of the FIR lodge against the applicants. It is further submitted that all the three brothers met on 18-05-2017 and executed one agreement for the partition, also executed joint affidavit and other affidavit in support of said partition agreement; with this, all the real brothers peacefully partitioned their ancestral property. Learned counsel for the applicants would further submit that the allegation of the complainant prima facie appears to be false and fabricated as to how a husband of elder age in presence of her own wife used any criminal force to outrage the modesty of her sister-in-law (भाभी). Both the applicants are not having any criminal antecedent. They are Government servant, permanent residents. They will cooperate in investigation. They may be granted anticipatory bail in the event of arrest by Navagarh, District Janjgir Champa police.

4. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submit that the complainant is working as Advocate. There is no reason to disbelieve prima facie the report lodged by her before the police. Hence, the applicants may not be enlarged on anticipatory bail.

5. Perused the entire material.

6. Looking to the entire facts as surfaced and the documents annexed including the report in writing against the complainant by her husband and other facts, as the applicants are Government servants, aged about 56 and 50 years, there are no possibility of their abscond, without commenting anything on its merit, I am inclined to grant anticipatory bail to the applicants. Consequently, the instant MCRCA is hereby allowed. It is directed that in the

event of arrest by the concerned police/concerned criminal court in connection with Crime No.87/2017 under Section 506, 323, 354/34 of the IPC, the applicants shall be released on bail by the officer/trial Court arresting them on each of them furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the said Court/authority. The applicants shall cooperate in the trial. If the applicants deliberately without any proper and cogent reason do not cooperate with the investigation, the order granting anticipatory bail by this Court shall automatically stand cancelled by concerned Court having jurisdiction on a complaint by the concerned police without further reference under intimation to the Registry. If the concerned Court having jurisdiction after considering the facts found that the applicants in any way not complied the directions given by this Court the anticipatory bail granted to the applicants shall automatically cancelled without further reference to the Bench. It is also made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants are found to be involved in any offence of the like nature and (iii) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge