

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 514 of 2017

1. Banshi Lal Dubey S/o Late Ratiram Dubey, Aged About 74 Years Resident Of Jaihind Nagar, Akaltara, Police Station & Tahsil Akaltara, District Janjgir- Champa (Chhattisgarh).
2. Smt. Shashi Dubey, W/o Shri Banshi Lal Dubey, Aged About 68 Years Resident Of Jaihind Nagar, Akaltara, Police Station & Tahsil Akaltara, District Janjgir- Champa (Chhattisgarh).
3. Atul Dubey, S/o Shri Banshi Lal Dubey, Aged About 40 Years R/o Boir Dadar, Chakradhar Nagar, Police Station Chakradhar Nagar, District Raigarh (Chhattisgarh).

---- Applicants

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station City Kotwali, District Bilaspur (Chhattisgarh).

---- Respondent

M.CR.C.(A). No. 552 of 2017

1. Smt. Anima Tiwari W/o Shri Om Prakash Tiwari, Aged About 38 Years R/o Rajkishor Nagar, Thana Sarkanda, Tehsil & District- Bilaspur, Chhattisgarh.
2. Om Prakash Tiwari, S/o Late Shri Maniram Tiwari, Aged About 44 Years R/o Rajkishor Nagar, Thana Sarkanda, Tehsil & District- Bilaspur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through District- Magistrate, District- Bilaspur, Chhattisgarh.

---- Respondent

For the applicants	:	Shri Manish Upadhyay, Advocate
For Respondent/State	:	Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

18/08/2017

1. Heard on the applications under Section 438 of Code of Criminal Procedure for grant of anticipatory bail to the applicants in both the cases.

2. It is submitted by learned counsel for the applicants in MCRC(A) No.514 of 2017 that they are apprehending arrest for the offence under Section 498- A/ 34 of Indian Penal Code in Criminal Case No.242 of 2017 registered at the Police Station Kotwali, Bilaspur. On the basis of the complaint made by Abhilasha Dubey, the complainant, applicants No.1 and 2, who are senior citizens, and applicant No.3 is elder brother in-law of the complaint and he is resident of Boir Dadar, Chakradhar Nagar, District -Raipur (C.G). The applicants have been falsely implicated by the complainant. Complainant – Abhilasha Dubey did not want to live in her matrimonial home and she was insisting that her husband and she herself should reside separately from the parents of her husband, hence, false report has been lodged against the applicants who are entitled for grant of anticipatory bail.
3. It is submitted on behalf of the applicants in M.CR.C.A. No. 552 of 2017 that applicant No.1 is sister-in-law of complainant - Abhilasha Dubey, and applicant No.2 is her husband. Both of them are residing in Rajkishore Nagar, Bilaspur and there had been no occasion for them to be present in Akaltara the matrimonial home of the complainant for the purpose of alleged commission of offence, hence, they are also entitled for grant of anticipatory bail.
4. Learned counsel for the applicants has placed reliance in the judgment of **Arnesh Kumar vs. State of Bihar and Another**, which has been relied in the recent judgment passed by the Supreme Court in the case **Rajesh Sharma Vs. State of Uttar Pradesh and Anr.** in Criminal Appeal No. 1265 of 2017 decided on 27.7.2017. In this judgment Hon'ble Supreme Court has observed that immediate registration of FIR for offence under Section 498-A of the IPC and immediate arrest of the person accused should be avoided and a specific direction has been issued with respect to constitution of committees to examine the complaint made under Section 498-A of IPC and the connected offences with directions to be investigated by a special officer appointed in this respect.

5. Per contra, learned State counsel opposes the application for grant of bail on the ground that the serious allegation has been made by complainant - Abhilasha Dubey against the applicants pertaining to demand of dowry and for giving mental and physical torture during the period of her stay at matrimonial home, by all the accused persons, hence, it is not the case that the applicants should be benefited with grant of anticipatory bail.
6. Shri Prakash Soni and Shri Malay Kumar Bhaduri, Advocates for the Objector submitted that they are assisting learned counsel for the State and seriously oppose the applications for grant of anticipatory bail.
7. Perused the case diary, the statement and the documents. Looking to the statements of the witnesses therein and also taken into consideration that the applicants in M.C.R.C.A. No.514 of 2017, applicants No.1 and 2 are Senior Citizens and applicant No.3 is resident of Raigarh and that the applicants in MCRC A No.552/2017 are residents of Bilaspur and also looking to the guidelines laid down by Hon'ble Supreme Court this appears to be a fit case for grant of anticipatory bail, hence, the applications in both the cases are allowed.
8. Accordingly, the bail applications filed under Section 438 of the Cr.P.C. are allowed.
9. It is directed that the applicants in both the cases shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd /-

(Rajendra Chandra Singh Samant)
Judge