

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1223 of 2016

1. Shayam Sundar Talreja S/o Late Nanumal Talreja Aged About 45 Years R/o C/111, Mahaveer Nagar, Raipur, Tehsil & District Raipur, Chhattisgarh.
2. Dilip Patel S/o Mr. Mohanlal Patel Aged About 42 Years R/o Murra Bhatti, Gudhiyari, Raipur, Tehsil & District Raipur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through The Police Station Gudhiyari, District Raipur, Chhattisgarh.

---- Respondent

For Applicants	:	Shri Raza Ali, Advocate
For State	:	Shri Avinash K. Mishra, Panel Lawyer
For Objector	:	Shri Shakti Raj Sinha, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/02/2017

Heard.

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No.315/2016, registered in Police Station- Gudhiyari, District- Raipur, for alleged commission of offence under Sections 354, 457, 506 read with Section 34 IPC.
2. Case of the prosecution, in brief, is that the applicants entered the house of the prosecutrix in the night and outraged her modesty.
3. Learned counsel for the applicants submits that the applicants are being implicated in a false case with the background that the husband of the

complainant had taken about Rs.20 lakhs from the applicants in connection with sale of a land and sold parcel of land, in respect of which, later on, it turned out that land really did not belong to him. This led to institution of a criminal case by the applicants against the husband of the complainant and two other persons by lodging FIR on 29.6.2016 for commission of offence of cheating and forgery. Thereafter, the husband of the complainant again assaulted the applicants which led to lodging of another FIR dated 26.9.2016 and the husband of the complainant is facing prosecution in the case. Therefore, only in order to falsely implicate the applicants as a counter case to seek protection with regard to prosecution in pending criminal case, complainant lodged report in the police station. Therefore, the applicants may be protected by granting them anticipatory bail.

4. On the other hand, learned counsel for the State and counsel for the objector opposed the application and submitted that the prosecutrix has stated in so many words in the FIR as also in the diary statement that the applicants entered her house in the night and caught hold of her, threatened her and outraged modesty. He also submits that the matter is still under investigation and it is stated that a neighbour was witness to all these incident whose statement is yet to be recorded.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the background of lodging criminal case against the husband of the complainant/ prosecutrix by the applicants on more than one occasions and pendency of criminal case and after having gone thorough the statement of the prosecutrix, I am inclined to protect the applicants.
6. The application is accordingly allowed. 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 arresting officer on each of them furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:
 - (i) the applicants shall make themselves available for interrogation by the police officer as and when required;

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- (ii) 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;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen