

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case (A) No.1377 of 2016**

1. Roshan Paikra S/o Shri Bharatlal Paikra Aged About 30 Years R/o Village Post Madhi, Police Station Dharsiwa, Tahsil Tilda, District Raipur, Chhattisgarh.
2. Ku. Punam Paikra D/o Shri Bharatlal Paikra Aged About 28 Years R/o Village Post Madhi, Police Station Dharsiwa, Tahsil Tilda, District Raipur, Chhattisgarh.
3. Smt. Madhuri Paikra W/o Shri Bharatlal Paikra Aged About 51 Years R/o Village Post Madhi, Police Station Dharsiwa, Tahsil Tilda, District Raipur, Chhattisgarh.
4. Shri Chinta Ram Verma S/o Shri Nand Ram Verma Aged About 60 Years R/o Village Keshli, Post Bhaisa, Police Station Suhela, District Baloda Bazar, Chhattisgarh,.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Dharsiwa (Chowki-Siliyari) Raipur, Chhattisgarh.

---- Respondent

For Applicants	: Smt. Anjana Jaiswal, Advocate
For Respondent/State	: Shri Anant Jaiswal, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****29.3.2017**

This application under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Code') has been filed by the applicants apprehending their arrest in connection with Crime No.340/2016 registered at Police Station Dharsiwa (Chouki-Siliyari) Raipur for offence punishable under Section 498 and 313/34 of the Indian Penal Code.

2. Learned counsel for the applicants would submit that the applicants were granted bail vide order dated 23.9.2016 in Crime

No.340/2016 initially registered against the applicants under Section 498/34 of IPC by the Judicial Magistrate First Class, Raipur, subsequently the police added Section 313 of IPC for the offence committed allegedly by the applicants in the year 2014. The applicants have not misused the liberty granted by the Court below vide order dated 23.9.2016 and allegation against the applicants causing miscarriage without consent of the victim is more than two years old, hence, the applicants may be enlarged on anticipatory bail.

3. Per contra, learned counsel for the respondent opposed the arguments advanced on behalf of the applicant.

4. Perused the written complaint filed by the wife of applicant No.1. As offence under Section 313 of IPC is punishable offence up to imprisonment for life, it cannot be held that taking cognizance of the said matter is beyond the scope of Section 468 of the Cr.P.C. Prima facie the wrapper of the said material responsible for the miscarriage was seized, the police has collected enough material for the offence under Section 313 of IPC. On due consideration of the material collected, I am not inclined to grant anticipatory material.

5. Consequently, the application filed under Section 438 of the Code is dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE