

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 49 of 2018

1. Tameshwar S/o Shri Awadh Upadhyay, Aged About 22 Years, R/o Village Changali, P. S. and Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh. , Chhattisgarh
2. Awadh S/o Narmada Prasad Upadhyay, Aged About 55 Years, R/o Village Changali, P. S. and Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh. , District : Rajnandgaon, Chhattisgarh
3. Smt. Asha Bai W/o Shri Awadh Upadhyay, Aged About 42 Years, R/o Village Changali, P. S. and Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh. , District : Rajnandgaon, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, through the Station House Officer, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh. , Chhattisgarh

---- Non-applicant

For Applicant – Shri C.K. Kesharwani, Advocate.

For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-04-2018

1. Apprehending arrest in connection with Crime No.247/2017, registered at Police Station – Khairagarh, District Rajnandgaon, Chhattisgarh for offence punishable under Section 498-A/34 of the IPC and Section 4 of Dowry Prohibition Act, the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicants, that the applicants are innocent and they have been falsely implicated in this case. Marriage of complainant Dimple Upadhyay and applicant No.1 was performed on 04-03-2017 and thereafter she went to live in matrimonial home, but, as the applicants reside in one interior village, the complainant herself was not willing to stay there, hence, she came back and forced her husband/applicant No.1 to come along with her. The complainant herself was not willing to reside in her matrimonial home also for the reason that she intended to have her parents to

get rid of their indebtedness and this fact has come in her statement before the Parivar Paramarsh Kendra. Copy of that document has been filed along with this application. The applicants are willing to take back the complainant as a member of their family. Hence, it is prayed that the applicants may be benefited with grant of anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application submitting that no case is made out for grant of anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary.

5. It is alleged in the case against the applicants is that, the applicants subjected the complainant to torture and cruel treatment for demand of dowry. The FIR has been lodged on 17-08-2017. Hence, this case.

6. Considered on the submissions made and contents of the case diary.

7. Considered on the entire material present in the case diary. Also perused the documents that has been filed along with this application and specific perusal has been made on the copy of proceedings before the Parivar Paramarsh Kendra Durg, in which, the complainant has made this statement that she is not willing to reside in her matrimonial home and wants divorce from her husband. Taking into consideration all these facts and also keeping in view the guidelines laid down by Hon'ble the Supreme Court in case of Arnesh Kumar Vs. State of Bihar, reported in (2014) 8 SCC 273, and Rajesh Sharma & Ors. Vs. State of U.P. & Ors., reported in 2017 (8) SCALE 313, I am of this view that the applicants should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is 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 officer arresting them on executing a personal bond in sum of Rs.25,000/- 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge