

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A). No. 267 of 2018

1. Jivit Narayan Dubey @ Jeet Narayan And Ors. S/o Late Ramvriksha Dubey Aged About 54 Years R/o Village Udaypur Dhab Police Station And Tahsil Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. Smt. Sheela Dubey W/o Jeet Narayan Dubey Aged About 50 Years R/o Village Udaypur Dhab Police Station And Tahsil Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
3. Ku. Shweta Dubey D/o Jeet Narayan Dubey Aged About 23 Years R/o Village Udaypur Dhab Police Station And Tahsil Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
4. Smt. Deepika Dubey W/o Ashish Kumar Dubey Aged About 30 Years D/o Jeet Narayan Dubey, R/o Udaypur Police Station And Tahsil Udaypur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

----Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Adim Jati Kalyan Thana, Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh.

---- Non-applicant

For Applicants : Mr. Rahul Mishra, Advocate.

For the State : Mr. Anant Bajpai, P. L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

11.05.2018

1. Heard.
2. Applicants have filed this bail application under Section 438 of the Cr.P.C. apprehending their arrest in connection with Crime No.18/2017 registered at Police Station- Adim Jati Kalyan Thana, Ambikapur, District- Surguja, (C.G.), for the offence punishable under Sections 376(2)(n), 313, 34 of the Indian Penal Code and Section 3(2-5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
3. Learned counsel for applicants submits that applicants have been falsely implicated in this case without any basis. According to the FIR lodged by the prosecutrix, the incident started from the year 2012 and the said pregnancy that was aborted is of another year 2013. whereas FIR has been lodged on 05.08.2017, after due deliberation, which is totally concocted, hence, it is prayed that benefit of Section 438 of the Code of Criminal Procedure be extended to the applicant.
4. On the other hand, learned State counsel opposes the bail application and submits that there is serious allegation against this applicant, hence, no case is made out for grant of bail.
5. Heard both the parties and perused the case diary.
6. According to the written complaint dated 02.05.2017, given by the complainant/prosecutrix, that co-accused (Rishikesh Dubey)

developed intimacy with the prosecutrix and, thereafter, established physical relation with her on a number of occasions. As a result, in the year 2013 she became pregnant and informed about the pregnancy to Rishikesh Dubey and when he did not show any interest she approached these applicants. It is alleged that on pretext of medical investigations of these applicants, took her to a quack, where due to some medication given, her pregnancy got aborted. The prosecutrix was assured by these applicants that they will get her married with Rishikesh Dubey shortly. She waited for some time, and, thereafter, she has filed the complaint and on that basis the FIR was lodged.

7. Considering on the submissions made, contents of the case diary and looking to the delay that has taken place in filing of complaint to the police of about more than 4 years, since the date of incident, I am of this view that applicant should be extended the benefit of Section 438 of the Cr.P.C.
8. Accordingly, the anticipatory bail application is allowed and 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 each in the like sum to the satisfaction of the concerned trial Court. 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 him by the said Court till disposal of the trial.

Sd /-

(Rajendra Chandra Singh Samant)
Judge

Jamal