

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 380 of 2018

1. Smt. Shanta Sharma W/o Alok Sharma, Aged About 34 Years, Occupation- Teacher, R/o- Village- Hafa, Post- Sakri, Police Station- Chakarbhatha, Tahsil- Takhatpur, District- Bilaspur. At Present Address- D-107, C.S.E.B. Colony, Korba, Police Chowki- Rampur, District- Korba, Chhattisgarh., District : Korba, Chhattisgarh
2. Preetam Pandey S/o- Kashi Prasad Pandey, Aged About 30 Years, R/o- Village- Hafa, Post- Sakri, Police Station- Chakarbhatha, Tahsil- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through- The Incharge, Mahila Thana- Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

MCRCA No. 390 of 2018

1. Kashi Prasad Pandey S/o Late Ramjhul Pandey, Aged About 68 Years, R/o- Village- Hafa, Post- Sakri, Police Station- Chakarbhatha, Tahsil- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Smt. Shashi Pandey W/o Kashi Prasad Pandey, Aged About 63 Years, R/o- Village- Hafa, Post- Sakri, Police Station- Chakarbhatha, Tahsil- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through- The Incharge, Mahila Thana, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

MCRCA No. 396 of 2018

1. Prahlad Pandey S/o Kashi Prasad Pandey, Aged About 35 Years, Working As Chief Municipal Officer, Nagar Panchayat, Dabhara, District- Janjgir-Champa Permanent Resident Of Village- Hafa, Post- Sakri, Police Station- Chakarbhatha, Tahsil- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Incharge, Mahila Thana- Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicants – Mr. Goutam Khetrapal and Ms. Anusueya Rajput, Advocate.

For Non-applicant/State – Ms. Smita Ghai, Panel Lawyer.

Mr. U.K.S. Chandel, Advocate for the objector.

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

08-05-2018

1. As all these three applications arise out of the same crime number, i.e., Crime No.13/2018 registered at P.S. Mahila Thana Bilaspur, District Bilaspur, Chhattisgarh for the offence under Section 498-A/34 of the IPC, they are being decided by this common order.
2. These are first bail applications filed by the applicants before this Court under Section 438 of the Cr.P.C. for grant of anticipatory bail as they are apprehending arrest in connection with aforesaid crime number and offence.
3. It is submitted by learned counsel for the applicants in all these applications that the applicants have been falsely implicated in this case. The marriage of the complainant was performed with applicant Prahlad Pandey (applicant in MCRCA No.396/2018) on 19-04-2016. The complainant gave birth to a child on 03-02-2017 and thereafter she is living in her parental home. Applicant Prahlad Pandey (applicant in MCRCA No.396/2018) was compelled to file an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and subsequent to dismissal of this application, he has filed a petition for divorce on 16-11-2017. In a development later on, the complainant has filed a petition under Section 9 of the Hindu Marriage Act on 25-11-2017 along with application under Section 125 of the Cr.P.C. She has later on filed an application under Section 12 of Protection of Women from Domestic Violence Act before the concerned Court and subsequent to that, the FIR was lodged on 28-02-2018. It is evident from all the development that has taken place that complainant herself is reluctant and unwilling to continue with her marriage and responsibilities. A totally false FIR has been lodged against the applicants. Hence, it is prayed that they may be benefited with grant of anticipatory bail.
4. Learned counsel for the State/non-applicant opposes the applications

submitting that allegation made by the complainant against her husband Prahlad Pandey (applicant in MCRC No.396/2018) are of very grievous nature and all the other applicants who happened to be the co-accused persons are also similarly responsible for the offence committed. Hence, none of them are entitled for grant of anticipatory bail.

5. Learned counsel for the objector after adopting the argument advanced on behalf of the State, submits that the submission made on behalf of the applicants are baseless and erroneous. In fact, the complainant was tortured right from the beginning of her married life for demand of dowry and she was also tortured in various other manners mainly by her husband Prahlad Pandey (applicant in MCRC No.396/2018) and as she gave birth to a female child, because of which, she was sent to her paternal home and she has been totally ignored by her husband and in-laws.

6. Heard learned counsel for the parties and perused the case diary.

7. According to the prosecution case, after performance of marriage on 19-04-2016 when complainant Astha Shukla/Pandey started residing in her matrimonial home, she was subjected to torture for the reason that her husband and in-laws were not satisfied with the dowry given at the time of marriage. She was also harassed for various other reasons alleging that the parents of the complainant had cheated the applicants. As the complainant gave birth to a female child, because of which her husband and in-laws were not happy with her and ultimately she was driven out from her matrimonial home on 07-03-2017. It is further alleged that Prahlad Pandey (applicant in MCRC No.396/2018) had relations with other women and the efforts of conciliation has also failed. Hence, this case.

8. Considered on the entire material present in the case diary. Taking into consideration the nature of allegation made by the complainant against the applicants 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.

9. Accordingly, all these anticipatory bail applications are 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge