

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1155 of 2017**

1. Mumtaj Bano, W/o. Late Abdul Sattar, Aged About 55 Years, R/o. Village Baudan, Police Station -Badan, Nuaapada, Orissa.
2. Aashma Bano, W/o. Muhammad Yusuph, Aged About 27 Years, W/o. Late Abdul Sattar, Village Kotpaad, Police Station- Kotpad, District- Kuraput, Orissa.

---- Applicants

Versus

State Of Chhattisgarh, Through SHO Police Station Keskhal, District Kondagaon Chhattisgarh.

---- Respondent

AND**M.CR.C.(A). No. 66 of 2018**

Mohammad Afjal, S/o. Abdul Sattar, Aged About 25 Years, R/o Village Baudan, P. S. Badan, Nuaapada (Orissa).

---- Applicant

Versus

State Of Chhattisgarh, Through S. H. O., P. S. Keskhal District Kondagaon Chhattisgarh.

---- Respondent

For Applicants	: Mr. S.C. Verma & Ravindra Sharma, Advocates
For Respondent/State	: Mr. Neeraj Mehta, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****27/03/2018**

1. Both the anticipatory bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
2. Apprehending arrest in connection with Crime No.135/2017, registered at Police Station – Keskhal, District – Kondagaon (C.G.)

for offence punishable under Section 294, 323, 506, 328, 498 (A)/34 of the Indian Penal Code, the applicants have preferred these applications for grant of anticipatory bail.

3. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. The complainant, wife of the applicant – Mohd. Afjal is suffering from mental disorder and she was never subjected to any cruel treatment and neither any offence has been committed against her, false FIR has been lodged against the applicants in Police Station – Keshkal, whereas according to the contents of the FIR, all the incident of offence have occurred in Nuapada, Orissa. Hence, no case is made out against this applicants, Therefore, it is prayed that the applicants be granted anticipatory bail.
4. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that according to the investigation made so far, there is clear allegation against this applicants regarding commission of all the offence registered against them, hence, no case is made out for grant of anticipatory bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to the case under investigation, marriage of the complainant Abeda Bano and applicant Mohd. Afjal took place on 21.07.2016. Thereafter, she went to live in her matrimonial home in District- Nuapada, Orisa. It is alleged that soon after the marriage, the applicants in both the cases started torturing the deceased for demand of money and while torturing her, complainant was beaten,

abused, threatened and also forcefully made to consume the poisonous substance i.e. pesticide. Thereafter, she was taken to the hospital in Nuapada and thereafter, the complainant was dropped in Keshkal in her paternal home on the very next day. Subsequent to that written complaint was filed in Police Station – Keshkal on 26.10.2017 on that basis FIR has been lodged against the applicants.

7. Considered the submissions made and the contents of the case diary. This appears to be a case of matrimonial dispute, hence, keeping in view the guidelines laid down by the Hon'ble 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 and recently in case of *Dataram Singh Vs. State of U.P. & Anr.* reported in 2018 SCC OnLine SC 88, in which the Hon'ble Supreme Court has deprecated making direct arrest of accused persons in case of matrimonial offences, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram