

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1088 of 2017**

1. Bhuwaneshwar Gauraha, S/o. Late Shri Raghunandan Prasad Gauraha, Aged About 61 Years, Occupation -Cultivation, R/o. 125, Parijat, Rajkishore Nagar Phase - II, Bilaspur, Police Station Sarkanda, Tehsil and District Bilaspur, Chhattisgarh.
2. Smt. Nirmala Gauraha, W/o. Shri Bhuwaneshwar Gauraha, Aged About 55 Years, Occupation -Housewife, R/o. 125, Parijat, Rajkishore Nagar Phase – II, Bilaspur, Police Station -Sarkanda, Tehsil and District -Bilaspur, Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : District Magistrate, District -Bilaspur, Chhattisgarh.

---- Respondent

For Applicants	: Mr. R.S. Marhas, Advocate
For Respondent/State	: Mr. Vijay Bahadur Singh, Panel Lawyer.
For Objector	: Mr. V.R. Tiwari, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****02/02/2018**

1. Apprehending arrest in connection with Crime No.769/2017, registered at Police Station – Sarkanda, Bilaspur, District – Bilaspur (C.G.) for offence punishable under Section 498 (A) & 34 of the Indian Penal Code, 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 have been falsely implicated in this case. The marriage of complainant took place with the son of the applicants on 06.06.2017. Soon after the marriage, the son of the applicants and their daughter-in-law, the complainant left for Mumbai, where the complainant resided for sometime and came back to her matrimonial home on 15.08.2017, subsequent to that she has lodged false FIR against the applicants. The circumstances after the performance of marriage itself shows that there had never been any occasion for these applicants to reside with their daughter-in-law and harass her for any demand of dowry. It is also submitted that because of some dispute and some harassment given by the brothers of the complainant, son of these applicants had to lodge complaint in Police Station – Panvel and on his complaint offence under Section 504, 506 of Indian Penal Code was registered. Subsequent to that, complainant also appeared before the counselors in which, she has stated that she was tortured by her husband because the parents of the husband used to say so. This is totally baseless allegation. Therefore, it is prayed that the applicant be granted anticipatory bail.
3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that there is clear allegation by the complainant herself that soon after the marriage, she was subjected to torture and cruel treatment by her husband and these applicants for demand of dowry. Hence, no case is made out for grant of anticipatory bail.
4. Counsel for the objector submits that a false complaint has been given by the husband in Police Station – Panvel only to make out a

ground for grant of anticipatory bail. Further the allegation made by the husband of the complainant before the counselors is totally false and baseless, 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. The facts and the incident are briefly stated herein above.
7. It is clear that subsequent to the performance of marriage, the applicants never resided with the complainant in Mumbai and the contents of the FIR and case diary also shows that all the allegation is related to the period, when the complainant was residing in Mumbai. Subsequent to that complainant has added one statement that her husband used to torture her at the instance of these applicants.
8. Taking into consideration all the facts and circumstances of the case and 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, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
9. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
10. 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 him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram