

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1124 of 2017**

1. Nandkishore Sahu S/o Tameshwar Prasad Sahu, Aged About 30 Years R/o L 207, Star Residency, Evershine City, Achole, Vasai East Thane Maharastra, Maharashtra
2. Tameshwar Prasad Sahu, S/o Gajraj Sahu Aged About 53 Years R/o Village Hardi Post Bija, Tehsil And P. S. Takhatpur District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Anita Sahu W/o Tameshwar Prasad Sahu Aged About 48 Years R/o Village Hardi Post Bija, Tehsil And P. S. Takhatpur District Bilaspur Chhattisgarh , District : Bilaspur, Chhattisgarh

---- Applicants**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Takhatpur, District Bilaspur C`hhattisgarh, Chhattisgarh
2. Neelam Sahu D/o Gautam Sahu Aged About 28 Years R/o Preet Villa Near Shiv Mandir , Ganga Nagar Sector 02, Mangla Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondents

For the Applicants : Shri Saurabh Dangi, Advocate.
 For Respondent No.1/State : Ms. Smita Ghai, P.L.
 For Respondent No.2 : Shri R.R. Soni, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.03.2017**

1. Heard on application for withdrawal of the application of applicants No.2 and 3.
2. It is submitted by counsel for the applicants that applicants No. 2 & 3 – Tameshwar Prasad Sahu and Anita Sahu have been arrested and also have been granted bail by the concerned trial Court; and as such, their application has become infructuous.

3. Accordingly, the application on behalf of applicants No.2 and 3 is dismissed as having become infructuous.

4. Also heard on application filed on behalf of applicant No.1 – Nandkishore Sahu under Section 438 of the Code of Criminal Procedure, 1973.

5. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to applicant No.1 – Nandkishore Sahu who is apprehending arrest in connection with Crime No.467 of 2017, registered at Police Station – Takhatpur, District – Bilaspur, Chhattisgarh for the offences punishable under Section 498-A/ 34 of the Indian Penal Code.

6. It is submitted by counsel for the applicants that applicant No.1 has been falsely implicated in this case. Complainant – Neelam and this applicant got married in the year 2013. Subsequent to that, they had some dispute between them as this applicant resided in Bombay being a servant of Central Government and the complainant did not want to reside in Bombay because of which, she came back to her parental home in the year 2016. Thereafter, she filed a complaint in Mahila Thana, Bilaspur. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

7. Learned State counsel opposes the bail application and the submissions made in this respect.

8. Heard counsel for both the parties and perused the case diary.

9. Complaint was filed by the complainant – Neelam before Mahila Thana, Bilaspur alleging that the applicant and the co-accused persons soon after the marriage started commenting that she has not brought a car and dowry and the gifts that were given are of low quality and also started torturing her mentally and physically. An effort was made by Pariwar Parishram at Mahila Thana, Bilaspur for compromise which was failed and subsequent to that, the FIR was lodged against him.

10. Considering the allegations made by the complainant in this case and the fact that applicant No.1 – Nandkishore Sahu is an employee of Central Government and also keeping in view the observations made by the Supreme Court in the cases of **Arnesh Kumar vs. State of Bihar** reported in **(2014) 8 SCC 273** and **Rajesh Sharma vs. State of Uttar Pradesh and Others** reported in **(2017) 8 SCALE 313**, I am of the opinion that the present is a fit case where applicant No.1 – Nandkishore Sahu is entitled to be released on anticipatory bail.

11. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of applicant No.1 in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him 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. He shall also abide by the following conditions:

- '(i) that applicant No.1 shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that applicant No.1 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 from disclosing such facts to the Court or to any police officer;
- (iii) that applicant No.1 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant No.1 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