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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 21 of 2019**

1. Smt. Rekha Thawani W/o Girish Thawani Aged About 51 Years R/o 38/7, Sector 7, New Rajendra Nagar Police Station New Rajendra Nagar Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Girish Thawani S/o Late Jiyaldas Thawani Aged About 56 Years R/o 38/7, Sector 7, New Rajendra Nagar Police Station New Rajendra Nagar Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Smt. Deeksha Sihani @ (Gunjan Thawani) W/o Shri Naveen Sihani Aged About 28 Years R/o Gali No. 02 Katora Talab Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Police Station New Rajendra Nagar District Raipur Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 56 Of 2019**

Sumit Thawani S/o Shri Girish Thawani Aged About 31 Years R/o Sector-7, New Rajendra Nagar, Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Police Station New Rajendra Nagar, Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Sunil Otvani, Advocate.
For the Respondent/State	:	Shri Adil Minhaj, P.L.
For the Objector	:	Shri Sumit Jhawar, Advocate.
Objector	:	Neha Mandhani, present in person.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****25.01.2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.313 of 2018 registered at Police Station – New Rajendra Nagar, Raipur, District Raipur, for the offence punishable under Sections 498A and 377 read with Section 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. The complainant had left her matrimonial home by her own on 13.11.2016. After keeping silence for almost about two years, she made a complaint to Mahila Thana, Raipur in which she has stated only about her disputes with her husband and in-laws. There was no allegation made regarding demand of dowry or regarding unnatural sex with her. Applicant No.2 – Girish Thawani in M.Cr.C.(A) No. 21 of 2019 himself had filed a complaint before the Sindhi Panchayat praying for resolution of the disputes. As the disputes could not be resolved, the complainant has come forward by filing a written complaint dated 5.12.2018 making allegation regarding cruel treatment for demand of dowry and regarding act of unnatural sexual intercourse done with her by her husband which shows that the case is concocted with a purpose. Hence, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the submissions made in this respect. It is submitted that according to the complaint, FIR and the statement given by the complainant there is evidence regarding commission of offence under Sections 498A and

377 of the IPC. Hence, it is prayed that the applicants in both the cases are not entitled for grant of anticipatory bail.

4. The complainant who is present in person has explained why she did not disclose about demand of dowry and about being subjected to unnatural sexual intercourse earlier for the reason that she wanted settlement.

5. Heard counsel for both the parties and the objector and perused the case diary.

6. Complainant – Neha Mandhani got married to applicant – Sumit Thawani in M.Cr.C.(A) No. 56 of 2019 on 17.01.2016. She has alleged in her complaint that soon after marriage when she was living in her matrimonial home her husband and in-laws expressed their dissatisfaction with respect to the dowry given and made a demand of cash of Rs.20,00,000/- and one car. Narration has been given regarding various incidents of torture given to her and also that she was driven out of her matrimonial home on 13.11.2016. The complainant was pregnant and delivered a female child on 19.7.2017 and this was informed to her husband and in-laws. Thereafter, it is alleged that the applicants tried to forcefully take the child from the complainant. The complainant made efforts for settlement by approaching the society and filing a complaint in Mahila Paramarsh Kendra, Raipur but the dispute could not be resolved. Then a complaint was filed, in which the complainant has stated that her husband applicant – Sumit Thawani had also forced her to have unnatural physical relation with her. Hence, this case.

7. After considering the material present in the case-diary and the submissions made in this respect from both the sides and 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 applicants in M.Cr.C.(A) No. 21 of 2019 are entitled to be released on anticipatory bail, but I do not feel inclined to allow M.Cr.C.(A) No. 56 of 2019 on account of additional allegation against him.

8. Accordingly, the bail application filed by the applicants in M.Cr.C.(A) No. 21 of 2019 under Section 438 of the Cr.P.C. is allowed and the bail application filed by applicant – Sumit Thawani in M.Cr.C.(A) No. 56 of 2019 is rejected.

9. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, the applicants in M.Cr.C.(A) No. 21 of 2019 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. They shall also abide by the following conditions:

- '(i) that the applicants in M.Cr.C.(A) No. 21 of 2019 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 them 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.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi