

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 169 of 2019

1. Mahmood Hassan Khan, S/o Late Maqubul Hassan Khan, aged about 67 Years, by Occupation Retired Shovel Operator (Tata Steel, Coal Mines, West Bokaro Division) Resident of 407, Verginia Sundarban Phase -2, Azad Nagar, Mango Jamshedpur, P.S. Jamshedpur, District-East Singhbhoom (Jharkhand).
2. Zeba Mahmood Khan, W/o Shri Shahrukh Khan, D/o- Mahmood Hassan Khan, by Occupation Housewife, R/o-496, Verginia Sundarban Phase- 2, Azad Nagar, Mango Jamshedpur, P.S. Jamshedpur, District-East Singhbhoom, Jharkhand.

---- Applicants

Versus

- State of Chhattisgarh Through- Mahila Thana, Ambikapur, District-Surguja, Chhattisgarh.

---- Respondents

For Applicants	:	Mr. Akhil Mishra & Mr. Anand Shukla, Advocate.
For Respondent	:	Mrs. Smita Jha, Panel Lawyer.
For Objector	;	Mrs. Hamida Siddiqui, Advocate.

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

27/02/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.20/2018 registered at Police Station-Mahila Thana, Ambikapur,

Sarguja, Chhattisgarh, for the offence punishable under Sections 498-A, 294, 323, 34 of Indian Penal Code.

2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. Applicant No.1 is father-in-law, whereas applicant No.2 is sister-in-law, who is presently carrying pregnancy. The complainant herself did not want to live in her matrimonial home because of which a complaint was made to one Islamic Authority-'Ba Adalat Darul Khaza Imarat Shariya', and thereafter the story of demand of dowry and cruelty was cooked-up. One of the accused has been granted regular bail, therefore, it is prayed that these applicants be also granted anticipatory bail.
3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that as per contents of FIR and statement of the complainant, no case is made out for grant of anticipatory bail to the applicants.
4. Learned counsel for the Objector after adopting the arguments advanced by State counsel submitted that both these applicants are very much responsible for the cruel treatment meted out to the complainant on account of non-fulfillment of demand of dowry. Some incidents of cruel treatments meted out to the complainant have already been narrated in the complaint. Hence, no extraordinary case is made out in favor of these applicants making them entitle for grant of anticipatory bail.
5. Heard both the parties and perused the case diary.
6. Marriage of Heena Fatima was performed with accused Abdul Kadir Mahmood Khan on 9.9.2017. It is alleged in FIR that the complainant

was tortured for demand of 10 tolas of gold and Innova Car and due to non-fulfillment of said demands by complainant's family, she was compelled to leave her matrimonial home on 8th May, 2018 and thereafter, she has lodged FIR against the applicants and co-accused persons.

7. After considering on the entire material present in the case diary and also keeping in view the law laid down by the Hon'ble Supreme Court in the matters of ***Arnesh Kumar vs. State of Bihar*** reported in **(2014) 8 SCC 273**, and ***Rajesh Sharma vs. State of Uttar Pradesh and Ors*** reported in **(2017) 8 SCALE 313**, I am of this opinion that applicants deserve to be benefited with grant of anticipatory bail..
8. Accordingly, the anticipatory bail application is allowed and 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 their executing a personal bond in the sum of Rs.25,000/- each 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.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha