

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 388 of 2019**

Gajanand Sirkey @ Amar Sirkey S/o Krishnarao Sirkey Aged About 32 Years
R/o Shanti Nagar, Bhilai-3, Near Nagar Palika Nigam, Tahsil- Patan, District-
Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Mahila Thana, Sector-6, Bhilai, District-
Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 408 of 2019**

1. Smt.Kusum Bai Shirke W/o Krishnarao Shirke Aged About 55 Years R/o Shanti Nagar, Bhilai - 3, Near Nagar Palika Nigam, Tehsil Patan, District Durg Chhattisgarh., District : Durg, Chhattisgarh
2. Smt. Padma Shirke W/o Ashok Shirke Aged About 33 Years R/o Shanti Nagar, Bhilai - 3, Near Nagar Palika Nigam, Tehsil Patan, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicants**Vs**

State Of Chhattisgarh Through Mahila Thana, Sector - 6 Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicants : Shri Sandeep Yadav, Advocate.
For the Respondent/State : Ms. Smita Jha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****18.03.2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the similar 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.14 of 2019

registered at Police Station – Mahila Police Thana, Sector-6, Bhilai, District Durg, for the offence punishable under Sections 498A 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. No case is made out against the applicants on the basis of the material placed before the Court by the prosecution. Applicant – Gajanand Sirkey @ Amar Sirkey in M.Cr.C.(A) No.388 of 2019 is a Government Servant working in Cooperative Bank, Durg. Applicant No.1 – Smt. Kusum Bai in M.Cr.C.(A) No. 408 of 2019 is a 70-year old lady although her age is mentioned in the cause-title as 55 years, but according to Aadhar Card vide Annexure-A/2 her date of birth is 1948. The complainant has made general allegations against the applicants whereas, the fact is that the complainant is a patient of Schizophrenia, which was not intimated at the time of marriage negotiation. When the complainant came to know about that, applicant - Gajanand Sirkey @ Amar Sirkey in M.Cr.C.(A) No. 388 of 2019 has filed a petition for divorce, because of which, false FIR has been lodged against the applicants as a counter-blast. 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 application and the submissions made in this respect. It is submitted that a serious allegation has been made by the complainant against the applicants for subjecting her to torture and cruel treatment for demand of dowry. Hence, it is prayed that the applicants are not entitled for grant of anticipatory bail.

4. Heard counsel for both the parties and perused the case diary.
5. The marriage of applicant – Gajanand Sirkey @ Amar Sirkey in M.Cr.C.(A) No. 388 of 2019 with the complainant took place on 20.4.2018. Various incidents of torture and cruel treatments are narrated in the FIR and ultimately, the complainant was compelled to leave her matrimonial home and then she has lodged the FIR.
6. Considered the entire material present in the case-diary. After considering the possibilities of settlement in this case 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 feel inclined to grant anticipatory bail to all the applicants in both the cases.
7. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.
8. It is directed that in the event of arrest of the applicants in both the cases 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. They 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 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