

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 477 of 2019**

1. Puranik Dadsena S/o Shri Ramji Dadsena Aged About 55 Years By Post Lecturer Post At Adarsh Govt. H. Sec. Girls School Mahasamund Chhattisgarh By Caste Kalar,, District : Mahasamund, Chhattisgarh
2. Smt. Laxmi Bai W/o Puranik Dadsena Aged About 50 Years (Household) By Kalar, R/o Ward No. 11, Mahasamund, P. S. Mahasamund, Tahsil And Civil - Revenue District And District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh
3. Tikesh Dadsena S/o Shri Puranik Dadsena Aged About 28 Years By Profession Private Job, By Caste Kalar, R/o Ward No. 11, Mahasamund, P. S. Mahasamund, Tahsil And Civil - Revenue District And District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through P. S. Mahasamund District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh.

---- Respondent

For the Applicants : Shri J.A. Lohani, Advocate.
 For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****03.04.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicants who are apprehending arrest in connection with Crime No. 108 of 2019, registered at Police Station – Mahasamund, District Mahasamund, Chhattisgarh for the offence punishable under Section 294, 323 and 498(A)/34 of the Indian Penal Code.

3. It is submitted by counsel for the applicants that they 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. The incident that has taken place on 2.3.2019 was a simple dispute. The stand of the applicants, however, is that they never assaulted and injured the complainant, but even if it is taken as it is, then it would be an offence under Section 323 of the IPC only and not a cruel treatment as defined under Section 498A of the IPC. Hence, it is prayed that the applicants be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that in the written complaint and in the FIR, the statement of the complainant is that the appellants have tortured for demand of dowry, cash of Rs.50,000/- and one motorcycle and because of non-fulfillment of their demands they were continuously misbehaved with her. Hence, it is prayed that the applicants are not entitled for grant of anticipatory bail.

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

6. The marriage of complainant – Smt. Gayatri Dadsena with applicant No.3 – Tikesh Dadsena was performed in the month of April, 2016 and she has one daughter from that wedlock. Earlier, there had been a case of demand of dowry by the complainant because of which, the complainant was thrashed by the applicants on 22.2.2017. Subsequent to which, the matter was compromised in a meeting and the applicants gave assurance that they will not make any demand for dowry. On 2.3.2019, because of some dispute

of other kind, the complainant was again thrashed by the applicants in this case. Thereafter, a written complaint and the FIR has been lodged on the same date. Hence, this case.

7. Considering the nature of the case against the applicants and the specific details mentioned in the FIR on 2.3.2019, I am of the considered view that the present is a fit case where the applicants should 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 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