

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 461 of 2019**

1. Smt. Vijay Laxmi Mishra W/o Anil Kumar Mishra Aged About 50 Years Occupation Housewife, By Caste Bramhan, R/o Bhatgaon, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
2. Anil Kumar Mishra S/o Late Ramvriksh Mishra Aged About 51 Years Occupation Service (Secl), By Caste Bramhan, R/o Bhatgaon, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
3. Kumari Rashmi Mishra D/o Anil Kumar Mishra Aged About 26 Years Occupation Student, By Caste Bramhan, R/o Bhatgaon, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
4. Sujeet Kumar Mishra S/o Anil Kumar Mishra Aged About 24 Years Occupation Student, By Caste Bramhan, R/o Bhatgaon, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Mahila Thana Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Goutam Khetrapal, Advocate.
For the Respondent/State	:	Shri Subhash Yadav, Dy. G.A.
For the Objector	:	Shri Avinash Choubey, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.04.2019**

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. 5 of 2019, registered

at Police Station – Mahila Thana, Ambikapur, District Surguja, Chhattisgarh for the offence punishable under Section 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 applicants are in-laws of complainant – Gayatri Mishra. After the marriage of the complainant with co-accused – Ashish Mishra on 10.7.2016, the complainant has resided in her matrimonial home for a short period and has left her matrimonial home since February, 2017 after she became pregnant. The delivery of a child has taken place on 3.9.2017 and thereafter, the complainant continued residing in her parental house and denied cohabiting with her husband and in-laws because of which, a complaint has been given in the police station on 11.9.2017. Thereafter, on the basis of the threat given by the complainant to implicate her husband in a police case another complaint was given to the police on 17.5.2018. Co-accused – Ashish Mishra then filed an application under Section 9 of the Hindu Marriage Act for Restitution of Conjugal Rights. In the meanwhile, the complainant has also filed an application under Section 125 of the Cr.P.C. which is pending before the Family Court. Subsequent to this, the FIR has been lodged on 2.3.2019 after a long delay which is totally concocted and it is a statement of falsehood. 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 the dispute started

earlier but the written complaint was given by the complainant on 12.3.2018 on the basis of which, FIR has been lodged on 2.3.2019 therefore, the submissions made on behalf of the applicants are not completely true. Hence, the applicants are not entitled for grant of bail.

5. Learned counsel for the Objector submits that soon after the marriage, the husband and in-laws of the complainant started making demand of money and various articles and for the fulfillment of the same, the complainant was misbehaved, abused and ill-treated because of which, she was compelled to leave her matrimonial home. Hence, the applicants are not entitled for grant of bail.

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

7. The marriage of the complainant has taken place with the co-accused on 12.7.2016. The complainant has left her matrimonial home since February, 2017 and the FIR has been lodged on 2.3.2019 on the basis of the written complaint in which it is alleged that the applicants have treated the complainant with cruelty for demand of dowry. In the span of time since February, 2017 till lodging of FIR the complainant had never been to her matrimonial home and she never had any occasion to reside with these applicants. The allegations that have been made are of prior to the date of February, 2017. It is also observed that none of the parties have made any effort to reconcile during this period.

8. Considering the submissions and the contents of the case-diary, 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 the applicants are entitled to be released on anticipatory bail.

9. 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