

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 669 of 2019**

Divya Mitra D/o Shri Udai Singh Aged About 46 Years R/o B-98, Ramagreen City, Khamtarai Road Bilaspur, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sudeep Agrawal, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.05.2019**

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 applicant who is apprehending arrest in connection with Crime No. 528 of 2019, registered at Police Station Sarkanda, District Bilaspur, Chhattisgarh for the offence punishable under Sections 323 and 324 of the Indian Penal Code and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. This applicant had adopted an orphan child and was taking good care of her. The injuries that were found on both the cheeks of the child can be accidental. The burn injury had occurred because the applicant was applying heat on the injury that the child suffered on her cheek which resulted in blisters and that was unintentional. Regarding the bite injury on another cheek, it is submitted that it was accidental when the child met with some other children, one of them may have caused such injury. Although, the FIR has been lodged against this applicant but in the later on development, the Child Protection Officer has given a favourable report in favour of the applicant and the custody of the girl child has also been again given to this applicant for taking foster care. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that when the representative of Matruchaya visited the child on the basis of the complaint he had received against the applicant and found injuries on both cheeks of the child. Thereafter, the custody of the child was removed from the applicant and then, the FIR has been lodged. It is a case of cruelty to a child of about 11 months. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. The applicant has obtained the custody of the child in process of adoption proceeding which is going on according to Central Adoption Resource Authority Rules (CARA Rules). The complaints were received by Matruchaya, Bilaspur from where the child was given foster care to the applicant and the child is being treated with cruelty by the applicant therefore, they went to the place of the applicant and found the complaints true and then, the FIR has been lodged.

7. Considered the report given by the Child Protection Officer which is a later on development and also considered the fact that the custody of the child has been given again to this applicant for taking proper care. Hence, after due consideration, I feel inclined to grant anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the Officer arresting her 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. She shall also abide by the following conditions:

- '(i) that the applicant shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi