

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 765 of 2019

1. Anita Sharma W/o Anand Sharma, Aged About 57 Years, R/o Plot No. 8, Krishna Society Rohnipuram, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Anand Sharma S/o Late Gajanand Prasad Sharma, Aged About 66 Years, R/o Plot No. 8, Krishna Society Rohnipuram, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh through the Station House Officer, Police Station Mahila Thana, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

MCRCA No. 766 of 2019

1. Abhinav Sharma S/o Anand Sharma, Aged About 32 Years, R/o Flat No. 102, Wing - B, EMP - 2, Mercury CHSL, Evershine Millenium Paradise, Phase - 1, Thakur Village Kandivali (East) Mumbai, District : Mumbai, Maharashtra

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station - Mahila Thana, Bilaspur, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicants – Shri Goutam Khetrapal, Advocate.

For State/non-applicant– Shri Rahim Ubwani, Panel Lawyer.

Smt. Indira Tripathi, Advocate for the objector/complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-05-2019

1. As these two applications arise out of the same crime number, i.e. Crime No.12/2019, registered at Police Station - Mahila Thana, Bilaspur, District – Bilaspur, Chhattisgarh for the offence punishable under Section 498-A/34 of the IPC, they are being decided by this common order.
2. These applications have been filed by the applicants for grant of anticipatory bail as they are apprehending their arrest in connection with aforesaid crime number and offence.

3. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. Marriage of applicant Abhinav Sharma (applicant in MCRCA No.766 of 2019) with complainant Dr. Akanksha Sharma has taken place on 04-02-2018. After a short stay in Raipur with in-laws the complainant went to stay with her husband Abhinav Sharma in Mumbai. The complainant then left her matrimonial home on 25-06-2018 and after keeping mum after three months, she made a complaint on 06-09-2018. The counseling proceeding took place in Pariwar Paramarsh Kendra, where the dispute was compromised and the complainant again went to live with her husband in Mumbai, where she lived upto 06-02-2019. The complainant herself is not willing to stay with her husband and his family and has leveled false allegations against them. Apart from that, the cause of action in this case has arisen in Mumbai.

On behalf of the applicant reliance has been placed on the judgments delivered by Hon'ble the Supreme Court in the matter of (1) **Shakson Belthissor Vs. State of Kerala and another**, (2009) 14 SCC 466, (2) **Bhushan Kumar Meen Vs. State of Punjab and others**, (2011) 8 SCC 438, (3) **Amarendu Jyoti and others Vs. State of Chhattisgarh and others**, (2014) 12 SCC 362 and (4) **Arnesh Kumar Vs. State of Bihar and another**, (2014) 8 SCC 273.

It is prayed that the applicants in both the applications may be granted anticipatory bail.

4. Learned counsel for the State/non-applicant opposes the applications and submits, that according to the complaint filed there had been never ending demand by the applicants side and cruel treatment with the complainant. The husband of the complainant, i.e., applicant Abhinav Sharma never consummated the marriage and has driven her out from her matrimonial home. When the in-laws, the applicants in MCRCA No.665 of 2019 were informed by the

complainant about non-consummation of marriage they tried to cover up and did not help the complainant. Therefore, it is prayed that both the applications may be rejected.

5. Learned counsel for the objector submits that applicant Abhinav Sharma chose to keep avoiding from the start of relation with the complainant on various pretexts, whenever she used to ask, he would quarrel or make demand instead. When the complainant continuously insisted for relationship with her husband, then Abhinav Sharma admitted that he is a gay and therefore not interested in female companion. When the complainant informed about this to his parents, in-laws they did not help her in any manner and instead continued with the demands. It is also submitted that despite the compromise before the Pariwar Paramarsh Kendra, the applicants in both the applications continued their misbehavior. Therefore, none of the applicants are entitled for grant of anticipatory bail.

6. The complainant is present in person before this Court. She has made similar statement regarding demand and cruel treatment and avoidance made by her husband. She has stated that her husband had been cruel to such extent and he would never make relation with her and used to make demand and torture and pressurize her. She has also alleged that parents of her husband, Abhinav Sharma had this knowledge that Abhinav Sharma is a gay, even then they agreed to marry him with the complainant and they have thus ruined her life. It is stated by her that because of physical condition of her husband there has remained no scope for any conciliation or compromise.

7. Heard learned counsel for the parties and complainant and perused the case diary.

8. Complainant Dr. Akanksha Sharma has lodged the FIR that after negotiation of marriage with Abhinav Sharma, the engagement took place on 25-06-2017. On the same date her in-laws made demand of 8 tolas gold and

Rs.8,00,000/- in dowry. This demand was fulfilled. The marriage was then performed on 04-02-2018. Again, then the gifts received and cash were handed over to the applicants. While residing in her matrimonial home at Raipur between 05-02-2018 and 16-02-2018 she was tortured by applicants Anita Sharma and Anand Sharma (applicants in MCRCA No.765 of 2019) by complaining that she has not brought sufficient dowry and she was ill-treated and misbehaved. The complainant then left with her husband to live in Mumbai in February, 2018. While stay in Mumbai her husband never cohabited with her and always used to avoid her company by staying away from the house and he never established physical relation with her. On 25-06-2018 her husband Abhinav Sharma quarreled and misbehaved with the complainant and drove her out of his house by leaving her outside the airport. The complainant then came back to her parental house. After the compromise before the Pariwar Paramarsh Kendra she again went to live with her husband in Mumbai, but her husband again misbehaved and never established physical relation with her and ultimately he admitted that he is a gay, therefore, he is not interested in her.

9. Considered on the entire material present in the case diary. Stay of the complainant with applicants Anita Sharma and Anand Sharma had not been very long and she has stayed for maximum time with her husband, applicant Abhinav Sharma. The allegations made by the complainant that her husband has admitted to be a gay has not been specifically denied by the applicants side. Therefore, after overall consideration on the submissions made and the case laws relied upon by the applicants, I do not feel inclined to grant anticipatory bail to applicant Abhinav Sharma (applicant in MCRCA No.766 of 2019). However, in case of applicants Anita Sharma and Anand Sharma (applicants in MCRCA No.765 of 2019), I feel inclined to allow their application.

10. Accordingly, the application (MCRCA No.766 of 2019) filed by applicant

Abhinav Sharma for grant of anticipatory bail is rejected.

11. MCRCA No.765 of 2019 filed by applicants Anita Sharma and Anand Sharma is allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These applicants shall also abide by the following conditions :

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

12. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge