

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 827 of 2019

1. Heeralal S/o Dhanua Kumhar, Aged About 38 Years, R/o Village Bahrasi, Police Station- Janakpur, Tahsil Bharatpur, District- Koriya, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Prem S/o Dauwa, Aged About 32 Years, R/o Village Chidaula, Police Station- Janakpur, District- Koriya, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicants

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station Janakpur, District- Koriya, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Smt. Bhawna Panika W/o Rajkumar Panika, Aged About 32 Years, R/o Village Bahrasi, Police Station Janakpur, Tahsil- Bharatpur, District- Koriya, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicants – Shri Vipin Singh, Advocate.

For Non-applicant/State – Shri Shrikant Kaushik, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-09-2019

1. Apprehending arrest in connection with Crime No.26/2019, registered at Police Station – Janakpur, District- Koriya, Chhattisgarh for offence punishable under Section 456, 376, 506/34 of the IPC, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case on account of previous dispute with the family of the prosecutrix. Earlier a complaint was lodged by the prosecutrix and her husband on which the police had not taken any action. Thereafter, an application was filed under Section 156(3) of the Cr.P.C. making false allegation against these applicants, on that basis and on the order of the Court, the FIR was lodged against these applicants. The case under investigation is totally without any substance. Therefore, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that the name of both the applicants has appeared in the FIR and in the statement of the prosecutrix. Therefore, it is a case of gang rape, hence, the applicants are not entitled for grant of anticipatory bail.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the FIR lodged, on the date of incident, applicant No.1 Heeralal in company of applicant No.2 Prem trespassed the house of the prosecutrix and then applicant No.1 inserted one finger in the private part of the prosecutrix while the applicant No.2 continued in his company, regarding which the FIR has been lodged.
6. From the contents of the FIR and the statement given by the prosecutrix it appears that the applicant No.1 is main culprit and the applicant No.2 was the person acting in furtherance of common intention. Therefore, looking to the facts and circumstances of this case, I do not feel inclined to allow the application.
7. Accordingly, this application filed by the applicants under Section 438 for grant of anticipatory bail is rejected.
8. However, on the prayer made by learned counsel for the applicants, the concerned Court is directed to consider and decide the regular bail application of these applicants preferably on the same day on which they surrender before the said Court, if practicable.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge