

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 803 of 2019**

1. Arvind Kumar S/o Shri Dinesh Sharma Aged About 48 Years R/o Shri Ram Path, Road No. 07, Arpana Colony, Ramjaypal Road, New Bailey Road, Patna, District- Patna Bihar.- 801503., District : Patna, Bihar
2. Smt. Soni Devi W/o Arvind Kumar Aged About 46 Years R/o Shri Ram Path, Road No. 07, Arpana Colony, Ramjaypal Road, New Bailey Road, Patna, District- Patna Bihar.- 801503., District : Patna, Bihar
3. Jitendra Sharma S/o Late Shri Ramanand Sharma Aged About 44 Years R/o Shri Ram Path, Road No. 07, Arpana Colony, Ramjaypal Road, New Bailey Road, Patna, District- Patna Bihar.- 801503., District : Patna, Bihar

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kusmunda, District- Korba, Chhattisgarh., District : Korba, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Rajkumar Gupta, Advocate.
For the Respondent/State	:	Ms. Madhunisha Singh, P.L.
For the Objector	:	Shri Dheeraj Kumar Wankhede, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.06.2019**

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. 141 of 2018, registered at Police Station – Kusmunda, District Korba, Chhattisgarh for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. Admittedly, there had been a friendship and affair between complainant – Abhishek Kumar Sharma and one co-accused - Kajal Kumari since about 12 years. Co-accused – Kajal Kumari has completed her B.Tech Course and joined service in a Software Company. The complainant vigorously wanted to marry co-accused – Kajal Kumari to which she did not agree, thereafter, the complainant harassed and threatened Kajal Kumari regarding which, one FIR has been lodged and one on-line complaint was given to Bihar Police on 13.1.2019 on which no action was taken. Thereafter, another complaint was given to the Superintendent of Police, Patna, regarding threatening given by the complainant to the daughter of applicant No.1 and also regarding misuse of the ID of Kajal Kumari in the social websites by the complainant which is Annexure-A/4, which was filed on 27.2.2019. After the interference of the police, the compromise has taken place between both the parties on 6.4.2019. The allegations against the applicants that they have received money from the complainant on pretext of providing the complainant graduation degree is totally false. FIR has been lodged in a revengeful attitude. 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 serious allegations have been made against the applicants and the co-accused in the FIR lodged which needs investigation therefore, the applicants are not entitled for grant of anticipatory bail.

5. Learned counsel for the Objector submits that the applicants have cheated the complainant by making false promise to marry co-accused Kajal Kumari with the complainant and a false promise was made to provide him with job and a degree certificate on Mechanical Engineering against which they have received in total sum of Rs.13,00,000/- from the complainant. There were number of demands made to the complainant. The applicants are influential persons and they have a criminal back ground. The degree that was provided to the complainant by the applicants was found to be forged on verification, therefore, the complainant has been exploited by the applicants for number of years and the finance provided by him utilized for them. Therefore, none of the applicants are entitled for grant of anticipatory bail.

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

7. Complainant – Abhishek Kumar Sharma has alleged in the FIR lodged by him that he has made a payment of Rs.13,00,000/- in total to the applicants for fulfillment of the promise on their part, to get him degree of Mechanical Engineering, a job and then to marry him with co-accused – Kajal Kumari. The applicants and the other co-accused persons have not performed their promises. The degree certificate that was provided to the applicants was found to be forged.

8. The allegations made in the FIR are completely denied. The material present in the case-diary as well as in the documents filed alongwith the application indicates long standing affair of the applicant with co-accused – Kajal Kumari which has turned sour after passing of time. Some complaints

have also been lodged against the complainant, alleging about the harassment given by him to co-accused – Kajal Kumari and others. Hence, looking to the history of the events in this case from both the sides, I feel inclined to grant anticipatory bail to the applicants.

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