

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 1121 of 2019**

1. Surjeet Singh Jayasi S/o Shri Raghuveer Prasad Jayasi, Aged About 26 Years, R/o. Thana Parisar Govt. Quarter, P.S. Seepat, District Bilaspur Chhattisgarh.
2. Raghuveer Prasad Jayasi, S/o. Late Shri Babulal, Aged About 50 Years, R/o. Pendri, Thana Masturi, District Bilaspur Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Mahila Thana, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Soumitra Kesharwani, Advocate on behalf of Achyut Tiwari, Advocate
For Respondent	: Mr. Ashish Gupta, P.L.
For Objector	: Mr. Dharendra Pandey, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/08/2019**

1. Apprehending arrest in connection with Crime No.18/2019, registered at Police Station – Mahila Thana, District – Bilaspur (C.G.) for offence punishable under Section 498-A, 34 of the Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. No case is made out against the applicants on the basis of the material present in the case diary. The applicant No.1 is husband of the

complainant, whereas the applicant No.2 is father-in-law of the complainant. It is submitted that the applicant No.1 and complainant both have performed love marriage on 12.07.2018, therefore, the allegation that the complainant was demanded dowry is totally false and baseless. The complainant was never tortured by these applicants for any demand. The applicant No.1 is the government servant whereas, the applicant No.2 is having a separate residents, which further shows the prosecution case improbable. It is submitted that the complainant is habitual of falsely implicating the persons, regarding which documents have been filed. The complainant lodged FIR against one Shivratan Agrawal on the basis of which, he was tried for offence under Section 376 of I.P.C. in S.T. No.16 of 2016 and acquitted by the judgment date 09.12.2016 for the reason that the complainant turned hostile before the Court. Similarly one FIR has been lodged against Smt. Simanti Shastri and Arvind Tiwari on the basis of which offence under Section 294, 506, 323, 34 and 354 (A) of I.P.C. have been registered and the persons concerned have been charge-sheeted. Similarly the complainant has lodged one FIR against Pawan Kumar Bharti for the offence under Section 354, 323 of I.P.C. on the basis of which the said Pawan Kumar Bharti was prosecuted, however, he has also been acquitted because the statement of the victim was not found reliable by the trial Court. Hence, on this basis, this prosecution against the applicants is also false. Therefore, it is prayed that the applicants may be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that

the complainant has made categorical statement regarding torture given to her on various pretext, therefore, the applicants are not entitled to be released on anticipatory bail.

4. Complainant is present in person before this Court as objector and written objection has also been filed narrating the incident that has taken place. The complainant herself has made statement that she has evidence in her possession in the electronic form, which may be perused by this Court in the manner the complainant has been treated with cruelty and tortured. It is submitted that the complainant had to make various efforts regarding lodging of FIR against the applicants because the applicant No.1 is police official. She made first complaint on 05.12.2018. Thereafter, she gave complainant to Superintendent of Police on 27.04.2019 and then again made complaint to D.G.P. on 31.05.2019 and another complaint was given to I.G. on 03.05.2019. She gave complaint to Women Commission on 26.04.2019 and again repeat application to S.H.O. of concerned police station on 27.04.2019. Subsequent to which after long delay, the FIR has been lodged on 23.06.2019, which itself shows that how the applicants are influential and have made all efforts that FIR should not be lodged in this case. Therefore, if the applicants are granted anticipatory bail, they shall tamper with the investigation and also influence the witnesses of this case. Therefore, it is prayed that the application be rejected.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. FIR has been lodged by the complainant – Khileshwari Sharma against these applicants and others that she performed love marriage with the applicant No.1 on 12.07.2018 by registered

marriage. Subsequent to which, the applicants have tortured her and misbehaved with her after consuming liquor. Similarly, the other co-accused persons also started misbehaving with the complainant. The complainant was abused by using filthy words by the applicants and other co-accused persons. It is alleged that the applicants used to make demand of money from the complainant and insult her. The complainant had made some payment to the applicants, thereafter, the applicant No.1 started doubting the integrity of the complainant and used to torture her and insult her for that reason, pregnancy of the complainant as also forcefully aborted by the applicant No.1. The complainant was driven out of matrimonial home just after two months. The applicant No.1 has illicit relation with number of other girls. When the complainant started residing separately, she was tortured by the applicant No.1 by making various threatening phone calls and also by making assault on the complainant and her family members through some unsocial elements because of which, the complainant had to run and take shelter in the Seepat Police Station. When the complainant made a phone call to her husband, the applicant No.1 admitted that he had sent the hooligans for torturing the complainant. Numerous statements have been made regarding the atrocity made by the applicant No.1.

7. Considered the submissions made and the contents of the case diary. Considering on all the material present in the case diary in entirety, it appears that all the allegations are mainly against the applicant No.1 regarding doubting the integrity of the complainant and regarding torture and assault etc. It is mentioned in the statement of the complainant, the applicant No.2 used to join hands

on the applicant No.1 on some occasions. Some of the co-accused persons in this case namely Sulochana Jaysi, Sarita Mahilange, Smt. Rashmi Kurre have been granted bail by the Court below and the case of the applicant No.2 appears to be similar, therefore, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant No.2, however, on the basis of the evidence present and the objection made against the applicant No.1, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant No.1

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. in respect of the applicant No.2 is allowed and in respect of the applicant No.1 is rejected.
9. It is directed that in the event of arrest of the applicant No.2 in connection with the aforesaid offence, he shall be released on bail by the officer arresting him 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. The applicant No.2 shall also abide by the following conditions :
 - (i) that the applicant No.2 shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that the applicant No.2 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 the applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicant No.2 shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram