

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.A. No. 1228 of 2019

1. Ashok Mahapatra S/o Late Raghunath Mahapatra Aged About 59 Years
2. Chhabilata Mahapatra S/o Ashok Mahapatra Aged About 52 Years
3. Bhagyodaya Mahapatra S/o Ashok Mahapatra Aged About 28 Years

(Both are r/o Ambikapur, Police Station And Tahsil - Ambikapur, District Surguja Chhattisgarh)

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kotwali, Ambikapur, District Surguja Chhattisgarh

---- Non-applicant

For Applicants – Mr. Awadh Tripathi, Advocate.

For Non-applicant/State – Mr. Arijit Tiwari, Panel Lawyer,

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30-08-2019

1. Apprehending arrest in connection with Crime No.436/2019, registered at Police Station – Kotwali, Ambikapur, District- Surguja, Chhattisgarh for offence punishable under Sections 498A and 323 of I.P.C., the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants that the complainant has made a totally false allegation against these applicants. It is a simple case of matrimonial discord and petty disputes, which have been magnified in the F.I.R. lodged. Therefore, on this basis, it is prayed that the applicants be granted anticipatory bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the complainant has made serious allegations against these applicants. Therefore, these applicants are not entitled for grant of anticipatory bail.

4. Heard learned counsel for the parties and perused the case diary.
5. According to prosecution case, the F.I.R. has been lodged by the complainant- Priyanka Mahapatra. Subsequent to her marriage with applicant No.03 on 20.02.2012, all the applicants started torturing her for demand of dowry, during which the complainant was also beaten by them. In between, the parents of the complainant took her back to her parental house, however, the applicants made promise that they will not torture and demand dowry from the complainant and brought her back to their house. Finally before the date of lodging of F.I.R., the applicants again told her to consume poison and also provided her with money to buy poison. Subsequent to that, this F.I.R. has been lodged.
6. After considering on the nature of the allegations and also that there may be an element of compromise present in this matrimonial dispute. Hence, keeping in view keeping in view the observations made by the Supreme Court in the cases of ***Arnesh Kumar Vs. State of Bihar*** reported in ***(2014) 8 SCC 273*** and ***Rajesh Sharma Vs. State of Uttar Pradesh*** and Others reported in ***(2017) 8 SCALE 313***, I am of the opinion that the present is a fit case where the applicant is entitled to be released on anticipatory bail.
7. Accordingly, the anticipatory bail application is allowed. 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 each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants 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 him/her 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika