

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1497 of 2019

1. Kulsum W/o Ahemad Julaha Aged About 54 Years Caste Muslim, R/o Village Dabgadi (Barbaspur), P. S. And Tahsil Pratappur, District Surajpur Chhattisgarh
2. Safina Bibi W/o Juman Aged About 30 Years Caste Muslim, R/o Village Sehra, P. S. Bhawadih, Palamu, Jharkhand

---- Applicants

Versus

- State Of Chhattisgarh Through The Police Station Pratappur, District Surajpur Chhattisgarh

---- Respondent

For Applicants	: Mr. TR Chandrakar, Advocate.
For Respondent/State	: Ms. Shriya Mishra, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

03/12/2019

1. The applicants have filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with crime no. 29/2019, registered at Police Station Pratappur, Distt. Surajpur (C.G.) for the offence punishable under Sections 363, 366 (A), 376, (2) (n), 506 & 368/34 of the IPC and Section 4 & 6 of the POCSO Act.
2. As per prosecution story, at the relevant time, age of the prosecutrix was about 17 years. On 11.03.2019, father of the prosecutrix lodged a missing report of her daughter/prosecutrix alleging therein that from 05.03.2019 his daughter was missing from his house and he made an allegation that co-accused Rustam has abducted her. On the basis of said report, initially offence under Section 363 of the IPC

has been registered. On 10.05.2019, the prosecutrix was recovered thereafter her statement was recorded, she stated in her statement that co-accused Rustam with the help of Applicant no. 1 Kulsum abducted her and then he married with the prosecutrix and kept her in Applicant No. 2 Safina Bibi house. Allegedly, both the applicants had assisted the co-accused in the crime in question. On the basis of said background, offence has been registered.

3. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the present case. In FIR no names of the applicants were mentioned. The main accused is Rustam in the matter, after recovery, in the first statement of the prosecutrix on 17.06.2019 recorded under Section 161 of Cr.P.C., she has not stated anything against applicant No. 1 Kulsum later on in her supplementary statement recorded under Section 161 of Cr.P.C. on 04.07.2019, on the first time she has disclosed the name of Applicant Kulsum. Applicant no. 2 Safina Bibi being a relative was known the fact that Rustam and Prosecutrix were married with each other because of that she gave shelter to them. The counsel further submits that no case can be made out against the applicants. Hence, it is prayed that the applicants may be granted benefit of anticipatory bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for the parties.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that in the first statement of the prosecutrix on 17.06.2019, recorded under Section 161 of Cr.P.C., she has not stated anything against applicant No. 1 Kulsum. Applicant no. 2 Safina Bibi being a relative was known the fact that Rustam and prosecutrix were married with

each other because of that she gave shelter to them. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicants.

7. Accordingly, the anticipatory bail application is allowed.

8. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with one surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-

- I. That the accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
- II. The accused/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. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. 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/-

(Arvind Singh Chandel)
Judge