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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1753 of 2018**

Smt. Shivani Swarnakar W/o. Shri Ashish Swarnakar, Aged About 34 Years
R/o. Village Tikarkala, Thana Gaurella, Tahsil Pendra- Road, District
Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Of Police Station Guarella District
Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 10079 Of 2018**

Ashish Swarnakar S/o Late Dwarika Prasad Swarnkar Aged About 34 Years
R/o Village Tikarkala, Thana- Gaurella, Tahsil- Pendra Road, District-
Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Police Of Police Station Guarella, District-
Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Yogendra Chaturvedi, Advocate.
For the Respondent/State	:	Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****21.01.2019**

Heard.

- Both these applications are being decided by this common order as they arise from the similar incident. M.Cr.C.(A) No. 1753 of 2018 is the first application under Section 438 of Cr.P.C. filed by the applicant for grant of anticipatory bail, who is apprehending arrest in connection with Crime No.355 of 2018, registered at Police Station – Gourela, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 115 and 306/ 34 of

the Indian Penal Code. M.Cr.C. No. 10079 of 2018 is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicant for grant of regular bail to him, who has been arrested in connection with the aforesaid offence.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. According to the investigation made so far, no case is made out against the applicants. The victim in this case has herself made a contradictory statement before the police, that firstly she was administered poison forcibly by the applicants, whereas, in her statement under Section 161 of Cr.P.C. she says that she got disturbed due to the filthy messages sent on mobile by applicant – Smt. Shivani Swarnakar, as such, she has purchased and consumed the poisonous substance, which shows that the FIR lodged is deliberate and false. Hence, for these reasons, the applicants are entitled for grant of regular/ anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that direct allegation has been made by the victim in this case. Hence, for these reasons, none of the applicants deserve to be enlarged on regular/ anticipatory bail.

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

5. As per the case, victim – Richa Soni had some affair with applicant – Ashish Swarnakar without having knowledge that he was already married. This came into the knowledge of wife of applicant – Ashish Swarnakar

because of which, the victim was sent filthy messages by applicant – Shivani Swarnakar and thereafter, the victim was called by both the applicants and by force the applicants administered some poisonous substance to her.

6. On perusal of case-diary, it appears that the victim in this case has improved her statement later on which contradicts her earlier statement. Hence, for these reasons, both the applicants deserve to be released on regular and anticipatory bail.

7. Accordingly, the bail applications filed under Sections 439 and 438 of the Cr.P.C. are allowed.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of applicant – Smt. Shivani Swarnakar in M.Cr.C.(A) No.1753 of 2018 in connection with the aforesaid offence, she shall be released on bail by the Officer arresting her 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. She shall also abide by the following conditions:

- '(i) that the applicant shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.'

9. It is directed that applicant – Ashish Swarnakar in M.Cr.C. No. 10079 of 2018 shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge