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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1375 of 2020

- Sunita Gopal W/o Manmohan Gopal, aged about 57 Years, R/o 108 Luis Road, Forest Field Western Australia 6058 Permanent Address W.Z. 294/9, G Block, Hari Nagar, Jail Road, New Delhi. Present Address Flat No. 3092, Tower No. 3, Parkar Residency, Sector 61, G.T. Karnal, Road Kundly Sonipath (Hariyana).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sarkanda, Bilaspur Chhattisgarh.

---- Respondent

MCRC No. 1838 of 2020

- Manmohan Gopal S/o Vanshugopal Gopal, aged about 67 Years, R/o W.Z. 294/9, G Block Hari Nagar, Jail Road, New Delhi, Present Address Flat No. 3092, Tower No. 3, Parkar Residency, Sector 61, G.T. Karnal, Road Kundly Sonipath (Hariyana).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Sarkanda, Bilaspur Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Pawan Kesharwani, Adv.
For Respondent/State	:	Mr. H. S. Ahluwalia, Dy. A.G.
For Objectors	:	Mr. R.S. Marhas, Adv and Ms. Shilpi Shrivastava, Objector in person.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

20.05.2020

1. The accused/applicants have moved this first bail application under Section 439 of Criminal Procedure Code for releasing them on regular bail during trial in connection with Crime No. 594/2017 registered at Police Station - Sarkanda, District

Bilaspur (C.G.) for the offence punishable under Sections 420, 468, 406, 120-B, 34 of IPC in case No. 1375/2020 and Sections 420, 467 468, 406, 120-B, 34 of IPC in case No. 1838/2020.

2. In this case, the applicants are mother-in-law and father-in-law of the complainant. The prosecution story, in brief, is that complainant lodged an FIR at Police Station Sarkanda, Bilaspur, *inter-alia* alleging therein that on 18.10.2012 her marriage was solemnized with the son of applicants in Aryasamaj Mandir at Gaziabad (U.P.), and after sometime of their marriage, complainant came to know that son of the applicants has citizenship of Australia and his citizenship of India was incorrect. It has been further alleged that at the time of marriage, son of applicants furnished wrong address and the applicants had already sold that property before her marriage. The allegation against the present applicants is that they have demanded dowry from the complainant and stridhan of the complainant is alleged to be kept by the applicants. Further allegation against the applicants is that they mislead the Court by furnishing their wrong address.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question because they were not involved in any such incident which was alleged in the FIR. He further submits that after the marriage of complainant and son of accused, they have shifted to Australia along with the applicants but after few days of marriage, complainant started misbehaving with the applicants and his family and she started insisting to go back to India to pursue her further education and for that she

adopted all the ill measures to go back India. He further added that as far as the citizenship is concerned, in the matrimonial site *Jeewansathi.com*, where profile of the applicants' son was created, nationality of Australia was clearly mentioned and because she wants to go back India, she created the concocted story to falsely implicate the applicants. The applicants are old persons, they are in Jail since 05.12.2019, they are ready to furnish adequate surety and shall abide by all the conditions and directions, which may be imposed by this Hon'ble Court, therefore, they may be released on bail.

4. On the other hand State counsel as well as counsel for the Objectors strongly opposes the bail application submitting that in the Marriage Certificate issued by Arya Samaj Vivah Mandir Trust, the Nationality of the applicant's son was mentioned as Indian and the applicant Manmohan Gopal was the witness of that. Further, referring to Annexure C-17, Certificate of Citizenship and Annexure C-18 Australian Passport, counsel for the Objector submits that both the annexures clearly show that the nationality of complainant's husband namely Varun Gopal is Australian. Since, the applicants didn't follow the Apex Court's order dated 20.09.2019 which read as under:-

> *“ The petitioners are directed to pay an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs) to the complainant within four weeks from today. However, the payment shall be subject to the orders to be passed by this Court on proper application being filed.*

> *Let the applicants cooperate with the police authorities and appear before them as and when required to assist the investigation. They may not be arrested for a period of four weeks.*
>
> *It is made clear that in case the amount is not paid, as assured, it will be treated as contempt of the order passed by this Court and the applicants will be dealt with suitably in accordance with law; as it is on the basis of the assurance made by the petitioners to deposit the amount, we have passed this order."*

therefore, they are not entitled to grant bail.

5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the totality of the facts and circumstances of the case, nature and gravity of the crime, detention period of the applicant, at this stage, I am not inclined to release applicant namely Manmohan Gopal on bail.
7. Accordingly, application of Manmohan Gopal filed under Section 439 of the Code of Criminal Procedure is rejected.
8. As far as applicant Sunita Gopal is concerned, taking into consideration the evidence against this applicant, as she is 57 years old lady and she is in jail since 05.12.2019, this Court is of the view that it is a fit case to release the applicant Sunita Gopal on bail.
9. Accordingly, the application of Sunita Gopal is allowed subject to the following conditions:-
    - She should deposit Rs. 40,00,000/- within 8 weeks from today in the Family Court, 50% of the total

amount shall be permitted to be withdrawn by the complainant i.e. Shilpi Shrivastava.

- After that, on furnishing a personal bond in the sum of Rs. 10,00,000/- with one local surety in the like sum to the satisfaction of the concerned Court for her appearance as and when directed.
- The applicant shall furnish a specific, undertaking that while on bail, she will not sale any property without permission of the Trial Court, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.
- The accused/applicant shall make herself available for interrogation before the concerned Investigating Officer as and when required and the accused/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 him/her from disclosing such facts to the Court or to any police officer.
- The accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.
- The applicant shall not leave the country without specific orders to be passed by the learned Trial Court.

10. Certified copy, as per rule.

Sd/-
(Rajani Dubey)
Judge

Vijay Sahu