

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.646 of 2020**Order Reserved on : 14.9.2020Order Passed on : 30.9.2020

Shabina Naz (Mukta), daughter of Haider Ali, aged about 33 years, resident of Subhash Nagar, Near Shiv Mandir, Kasaridih, Durg, Tahsil and District Durg, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh through the Station House Officer, Police Station Kotwali, Durg, District Durg, Chhattisgarh

---- Respondent

For Applicant	:	Shri Goutam Khetrapal, Advocate
For Respondent/State	:	Shri Ghanshyam Patel, Government Advocate

Hon'ble Shri Justice Arvind Singh Chandel**CAV ORDER**

1. The instant is first application for grant of anticipatory bail to the Applicant. She is apprehending her arrest in connection with Crime No.192 of 2020 registered with Police Station Kotwali, Durg, District Durg for offences punishable under Section 420 of the Indian Penal Code and Section 12(A) of the Passport Act.
2. According to the case of the prosecution, the Applicant is a resident of Bangladesh. On 2.1.2006, she came to India after obtaining visa for 15 days. Thereafter, she did not get her visa extended even after expiry of the said 15 days. It is further alleged that she fraudulently obtained passport and visa of India as also an Indian identity card

from the office of Election Commission of India and thereby she committed cheating and fraud.

3. Shri Goutam Khetrapal, Learned Counsel appearing for the Applicant submitted that the Applicant has been falsely implicated in the case. Even if the case of the prosecution is taken as it is on its face value then also the alleged offences are not made out against the Applicant. The passport and visa of India were issued in her favour after due scrutiny and verification of the record. Referring to the provision of Section 15 of the Passport Act, it was further submitted that without obtaining prior sanction from the competent authority, the police has no authority to investigate into the matter. The Applicant is a lady and presently she is carrying pregnancy and, therefore, there is no likelihood of her absconding. Therefore, she may be granted benefit of anticipatory bail.
4. Shri Ghanshyam Patel, Learned Government Advocate appearing for the State/Respondent, opposing the anticipatory bail application, submitted that there is sufficient material available on record to show that the Applicant is a resident of Bangladesh. She came to India after obtaining a visa for 15 days. Thereafter, she did not get her visa extended. She fraudulently obtained Indian passport and visa as also an Indian identity card from the office of Election Commission of India. Though she is a lady, looking to the manner in which the offence has been committed by her, she is not entitled to get benefit of anticipatory bail. As regards the prior sanction for prosecution of the Applicant, it was submitted by Learned Government Advocate that the prior sanction for prosecution of the Applicant is required only at the stage of prosecution not at the stage of investigation. Since the

investigation is pending, the argument advanced by Learned Counsel appearing for the Applicant in this regard is pre-mature.

5. I have heard Learned Counsel appearing for the parties. I have also minutely perused the material available.
6. A perusal of the documents annexed with the bail application and the material available in the case diary makes it apparent that the Applicant is originally a resident of Bangladesh. Despite that, she knowingly obtained Indian passport and visa as also an Indian identity card from the office of Election Commission of India. Looking to the manner in which the offence has been committed, I am not inclined to grant benefit of anticipatory bail to the Applicant.
7. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Arvind Singh Chandel)
JUDGE