

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 779 of 2020**

1. Jarina Begum W/o Sher Khan, aged about 50 years,
 2. Sana Farzana W/o Mazhar Khan, aged about 31 years,
- Both are R/o Village- Mahora, present Address- Majhgavaon, P.S. Baikunthpur, Distt. Korla (C.G.)

---- Applicants**Versus**

State of Chhattisgarh through Station House Officer, Police Station AJAK, Baikunthpur, Distt. Korla (C.G.).

---- Respondent

For Applicants	:	Mr. Awadh Tripathi, Advocate
For Respondent	:	Mr. Alok Nigam, Govt. Advocate
For Objector	:	Mr. J.N. Nande, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**06/08/2020**

1. The matter is heard through video conferencing.
2. The applicants have filed this application under Section 438 of the Cr.P.C. for grant of anticipatory bail as they are apprehending their arrest in connection with Crime No. 15/2020 registered at Police Station AJAK, Baikunthpur, Distt. Korla (C.G.) for the offence punishable under Sections 376, 420, 506 read with 34 of the IPC and Section 3 (2)(V) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act (henceforth 'the Act').
3. In this case, the Prosecutrix is a divorced lady aged about 38 years having two children. She is working as Food Inspector. According to the case of the prosecution, son of applicant No. 1 and husband of

applicant No. 2 i.e. co-accused Mazhar developed some friendship with the Prosecutrix. Co-accused Mazhar introduced himself as unmarried person and has taken advantage of loneliness of the Prosecutrix. Co-accused Mazhar, on the pretext of marriage, developed physical relation with the Prosecutrix. Both have also executed an agreement regarding their marriage. It is alleged that co-accused Mazhar refused to marry with the Prosecutrix and did not keep her as his wife. When the Prosecutrix wanted to reside in the house of the applicants along with co-accused Mazhar, then the applicants have not allowed her to reside as wife of co-accused Mazhar. It is also alleged that the applicants and other co-accused persons have also abused her on the name of her caste. It has been further alleged that on one occasions, applicant No. 1 stayed in the house of the Prosecutrix, where also she abused the Prosecutrix on the name of her caste. On the basis of report made by the Prosecution, offence has been registered.

4. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and they have been falsely implicated in the present case. He further submits that the allegation of offence related to Sections 376 and 420 of the IPC has been leveled against co-accused Mazhar only, therefore, offence under Section 3 (2) (v) of the Act shall not attract against the present applicants. All the allegations are made against co-accused Mazhar. Prima-facie no offence is made out against the applicants, therefore, the applicants may be extended the benefit of anticipatory bail.
5. Learned counsel appearing on behalf of the State and Objector

oppose the argument advanced by counsel for the applicants. They further submit that from the contents of the FIR and material collected by the prosecution, prima-facie offence under Section 3 (1) (r) and 3 (1) (s) of the Act shall be made out against the applicants. Referring the whatsapp chatting and statement of the Prosecutrix recorded under Section 161 of the Cr.P.C, Shri Nande further submits that offence under Section 3 (1) (u) of the Act is also made out against the applicants. They pray to reject the bail application.

6. In reply to the above, Mr. Tripathi submits that with regard to the offence relates to Sections 3 (1) (r) and 3 (1) (s) of the Act, on both the occasions the alleged incident took place inside the house, therefore, prima-facie offence under Sections 3 (1) (r) and 3 (1) (s) of the Act are not made out against the applicants. He further submits that there is nothing on record on the basis of which it can be said that offence under Section 3 (1) (u) of the Act in any manner shall attract in this case. He prays to extend the benefit of anticipatory bail to the applicants.
7. I have heard counsel for the parties.
8. Considering the facts and circumstances of the case, argument advanced by counsel for the parties and further considering the statement of the Prosecutrix and house owner of the Prosecutrix, prima-faice it is established that both the alleged incident, relate to the present applicants, occurred inside the house and the allegations regarding cheating and commission of rape is leveled against co-accused Mazhar, without further commenting on other merit of the cases, I am inclined to give benefit of anticipatory bail to the

applicants.

9. Accordingly, the anticipatory bail applications are allowed.
10. 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.10,000/- with one surety each 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 make themselves available for interrogation before the concerned Investigating Officer and if their specimen signature would be required they will submit their specimen signature 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.
11. Certified copy, as per rules.

Sd/-
(Arvind Singh Chandel)
Judge