

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 873 of 2020**

1. Shri Sachin Dakaha S/o Durgaprasad Dakaha, Aged About 31 Years R/o- "Gurukrupa", Plot No. 56, Sant Tukdoji Society, Prabhu Nagar, Manish Nagar, Nagpur
2. Durgaprasad Dakaha S/o Ramprasad Dakaha Aged About 61 Years R/o- "Gurukrupa", Plot No. 56, Sant Tukdoji Society, Prabhu Nagar, Manish Nagar, Nagpur
3. Smt. Ashwini Shukla W/o Akash Shukla, D/o Durgaprasad Dakaha Aged 33 Years Presently Working As Bank Manager, Union Bank Of India, Mumbai, R/o Cotton Green, Mumbai, (Maharashtra)

---- Petitioner**Versus**

- State Of Chhattisgarh Through Police Station Officer, City Kotwali Police Station, Raipur, Chhattisgarh

---- Respondent

For Applicants	Mr. Aayush Bhatia, Advocate
For Respondent/State	Mr. Ayaz Naved, Government Advocate
For Complainant	Mr. Devershi Thakur, Advocate

SB.: Hon'ble Mr. Justice Prashant Kumar Mishra**Order On Board****19/11/2020**

1. Heard.
2. This is an application filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the applicants, who are apprehending their arrest in connection with Crime No.114/2020 registered at Police Station City

Kotwali, Raipur for the offence punishable under Sections 377, 498-A and 506 of the IPC read with Section 34 of the IPC.

3. Applicant No.1 was married with the complainant on 8.6.2017 at Raipur. After living happily for about 5-6 months, trouble started brewing in their relationship, which has been mentioned by the complainant in her first complaint to the Police on 19.3.2019 (Annexure A-4). In this complaint, she has mentioned that she is living separate from her husband since after 28.10.2018. The second complaint was filed by the complainant on 17.10.2019 vide Annexure A-9 improving the allegations against the applicants. Thereafter, on 10.4.2019, applicant No.1 moved the Family Court, Nagpur by filing a petition under Section 13 of the Hindu Marriage Act for grant of divorce. In the counselling conducted by the Family Court, Nagpur on 11.10.2019, the parties expressed their inability to live together. The present FIR has been lodged with the Raipur Police on 29.3.2020 alleging demand of dowry, commission of cruelty and unnatural sex.
4. Mr. Aayush Bhatia, learned counsel for the applicants, would submit that the first complaint itself was moved by the complainant after five months of leaving the matrimonial house. He would also submit that the offences are triable by the Judicial Magistrate First Class and in each subsequent complaints, the complainant has improved and embellished the nature of allegations. He would further submit that applicant No.1 is working as Manager in the Bank of India, Vardha Branch,

Maharashtra, whereas, applicant No.2 is a retired Central Government Servant and applicant No.3, a lady aged about 33 years, is *Nanand* of the complainant and she is residing separate from applicant No.1 as she is already married.

5. Mr. Aayaz Naved, learned Government Advocate for the State and Mr. Devershi Thakur, learned counsel for the complainant, would vehemently oppose the bail application. According to them, the entire allegations were not disclosed in the first complaint in the hope that their marriage may be saved and the complainant could live a happy life in future. It is also submitted that applicant No.1 has not only committed cruelty both mentally and physically against the complainant but has also committed unnatural sex and sex without her will and consent.
6. Having heard learned counsel for the parties and on perusal of the papers filed with the bail application as well as the case diary, it appears, there was no allegation of demand of dowry or unnatural sex in the first complaint. The present FIR has been lodged after one year of filing of the first complaint and moreover, in the meanwhile, applicant No.1 has moved the Family Court, Nagpur on 10.4.2019 seeking divorce. The applicant No.1 is a public servant working as Manager in the Bank of India, Vardha Branch, Maharashtra.
7. Considering the nature of allegations, it does not appear that the custodial interrogation of applicant No.1 would be required. Applicants 2 & 3 have already been granted interim bail by this

Court on 14.7.2020. The offences are triable by the Judicial Magistrate First Class.

8. In the totality of the circumstances, I am inclined to admit all the applicants to anticipatory bail.
9. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them furnishing a personal bond for a sum of Rs.50,000/- with one surety each in the like sum to the satisfaction of the Arresting Officer with the following conditions :-
 - (i) they shall make themselves available for interrogation by a Police Officer as and when required;
 - (ii) they 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 for disclosing such facts to the Court or to any Police Officer.
 - (iii) they shall not influence the witnesses during pendency of the trial.

Certified copy as per rules.

Sd/-

(Prashant Kumar Mishra)

Judge

Shyna

