

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1415 of 2019**

1. Mahendra Kumar Markande S/o Anjor Das Markande Aged About 21 Years (Now Aged About 24 Years) R/o Village Kirvai, Police Station Rajim, District Gariyaband, Chhattisgarh.
2. Ku. Minakshi Markande S/o Anjor Das Markande Aged About 19 Years (Now Aged About 22 Years) R/o Village Kirvai, Police Station Rajim, District Gariyaband, Chhattisgarh.
3. Ku. Sarita Markande D/o Anjor Das Markande Aged About 15 Years (Now Aged About 18 Years) R/o Village Kirvai, Police Station Rajim, District Gariyaband, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Officer Police Station Rajim District Gariyaband, Chhattisgarh.

---- Respondent

For the Applicants : Shri Vikash Pradhan, Advocate.
 For the Respondent/State : Shri C.B. Kesharwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****12.02.2020**

1. At this stage, it is submitted by learned State counsel that the application for grant of anticipatory bail to applicant No.3 – Ku. Sarita Markande has become infructuous as she has been arrested and presented before the Juvenile Justice Board. Therefore, on the basis of the statement, the application of applicant No.3 is dismissed.
2. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

3. This is the second bail application of applicants No.1 and 2. The first bail application of the applicants was dismissed as withdrawn on 15.5.2019 in M.Cr.C.(A) No. 719 of 2019 and liberty was given to file a repeat application. Applicants No.1 and 2 are apprehending arrest in connection with Crime No. 139 of 2016, registered at Police Station – Rajim, District Gariyaband, Chhattisgarh for the offence punishable under Sections 294, 506(B), 323, 326 and 307, 34 of the Indian Penal Code.

3. It is submitted by counsel for applicants No.1 and 2 that they are innocent and have been falsely implicated in this case. There is no evidence present in the case-diary to show that these applicants participated in the commission of offence. Main accused – Anjor Das Markande has been tried and convicted. Hence, it is prayed that applicants No.1 and 2 be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that there are statements of complainant and eyewitnesses regarding participation of these applicants in the commission of offences and the offences committed are of grave nature. Hence, no case is made out for grant of anticipatory bail to applicants No.1 and 2.

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

6. According to the prosecution case, on the date of incident, on account of some dispute regarding agricultural field it is alleged that main accused – Anjor Das Markande and the applicants who are his son and daughter,

assaulted victims – Nandu Nimawat and Deva with iron rods wrapped with burning clothes having intention to cause their death.

7. Considering the fact that the allegation of assault by use of iron rod is only upon applicant No.1 – Mahendra Kumar Markande and the participation of applicant No.2 – Ku. Minakshi Markande is on the lesser side and she is also a woman, therefore, I feel inclined to allow the application of applicant No.2, however, applicant No.1 does not deserve to be granted anticipatory bail.

8. Accordingly, the anticipatory bail application of applicant No.1 – Mahendra Kumar Markande is rejected and the anticipatory bail application of applicant No.2 – Ku. Minakshi Markande is allowed and it is directed that in the event of arrest of applicant No.2 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 applicant No.2 shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that applicant No.2 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 applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that applicant No.2 shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi