

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 187 of 2021

1. Mrs. Aruna Gwalani W/o Mr. Inderlal Gwalani, Aged About 66 Years,
2. Mr. Inderlal Gwalani S/o Late Mr. Shwaram Gwalani, Aged About 66 Years,

Both Residing At Block No. C-31/118, Gwalani Avenue, 1st Floor,
Near U.M.C. Office, Ulhasnagar (Maharashtra) - 421001.

---- Applicants

Versus

1. State Of Chhattisgarh, Through Police Station Mahila Thana Raipur, District Raipur (C.G.).

---- Non-Applicant

For Applicants	:	Mr. Ghanshyam Mishra, Advocate.
For State/Non-applicants	:	Mr. Ayaz Naved, Govt. Advocate.
For Objector	:	Ms. Naushina Afrin Ali, Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

01/07/2021

- 1) The matter is heard through Video Conferencing.
- 2) The applicants have preferred this First Bail Application under Section 438 of Cr.P.C. as they are apprehending their arrest in connection with Crime No. 06/2021 registered at Police Station Mahila Thana Raipur, District Raipur (C.G.) for the offence punishable under Section 498A, 506 of Indian Penal Code and Section 3, 4 of Dowry Prohibition Act.
- 3) Case of the prosecution, in brief is that on 08/01/2021 the complainant Priyanka Gwalani lodged a report against the applicants and her husband Vijay Gwalani to the effect that her marriage was solemnized with Vijay Gwalani on 01/05/2013 at

Thane, Mumbai and after marriage she realized that her husband was not capable of establishing physical relations with her. It is also alleged that at the time of marriage, applicant No. 2 father-in-law and husband of the complainant demanded Car and Rs. 5 Lakh towards expenses incurred in the interior designing of the house from the family of the complainant. It is alleged that the complainant has given Rs. 50 Lakh to the applicants and her husband on their demand but still they are demanding Rs. 50 Lakh in addition. When the complainant and her family members expressed their inability to meet the illegal dowry demands of the accused persons, they started committing cruelty to her and also threatened of her life.

- 4) Learned counsel for the applicants submits that the applicants are innocent persons and have been falsely implicated in this case. He submits that no demand as alleged by the complainant was ever made by the applicants. It is submitted that there is no medical evidence to show that the complainant was assaulted or treated with cruelty by the applicants. The applicants are aged persons of 66 years, they are suffering from various ailments, the applicants are residing separately at Ulhasnagar, Maharashtra whereas the complainant with her husband is residing at Chembur East, Mumbai, there is no criminal antecedents of the applicants, there is no apprehension of their absconding or tampering with the evidence. Therefore, the applicants be released on anticipatory bail.
- 5) On the other hand, learned counsel for the State as well as counsel for the Objector opposes the bail application on the ground that there are sufficient material available in the case dairy which establish involvement of the accused applicants in commission of the crime.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the fact that marriage of applicants' son namely Vijay Gwalani was

solemnized with the complainant on 01/05/2013, Vijay Gwalani and the complainant lived together till 06/06/2020 and out of their wedlock a child was born, who is presently 4 years old, the FIR was lodged after a long period of marriage on 08/01/2021, no medical evidence is there to show physical assault on the victim, though some amount was given by the family of the complainant to the applicants and her husband at the time of marriage but at this stage it cannot be said to be given in consequence of demand of dowry by the applicants, the applicants are residing separately at Ulhasnagar, Maharashtra whereas the complainant and her husband are working and living separately at Chembur East, Mumbai, the matter regarding custody of the minor child of the complainant has been referred to Mediation by the Hon'ble Supreme Court, there are number of litigations pending between the complainant and her husband and as such there appears to be matrimonial dispute between the parties, the age of the applicants i.e. 66 years, there is no criminal antecedents of the applicants, as admitted by the State Counsel no custodial interrogation of these applicants is required, though the matter is under investigation, however, no apprehension is shown by the State Counsel of their absconding or tampering with or influencing the witnesses, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for granting anticipatory bail to the applicants. Accordingly, the application is **allowed**.

- 8) It is directed that in the event of arrest of the applicants in connection with the aforesaid crime, they shall be released on bail by the Arresting Officer on **each** of them furnishing a personal bond for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- to the satisfaction of the Arresting Officer. Applicants shall be released on bail on the following conditions:-
- i. they shall make themselves available for interrogation before the Police 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 from disclosing such fact to the Court or to the Investigating Officer,
- iii. they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- iv. they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- v. they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.
- vi. they shall not involve themselves in any offence of similar nature in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant