

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 714 of 2021**

- Sajda Khatun W/o Rahman Taj, aged about 26 years, Occupation- Householder R/o Village- Kalyanpur, P.S. Surajpur Tahsil Ramanujnagar Distt. Surajpur Chhattisgarh. At present Village Sonpur police chowki-Badeai, P.S. Surajpur, Tahsil Bhaiyathan Distt. Surajpur, Chhattisgarh.
- Samsuddin S/o Rahamuddin, aged about 45 years
- Naimunnisha W/o Samsuddin aged about 43 years, occupation- Householder

Applicant 2 and 3 are R/o village Kalyanpur, P.S. Surajpur Tahsil Ramanujnagar, Distt. Surajpur, Chhattisgarh.

-----Applicants

VERSUS

- State of Chhattisgarh through: Police Station Surajpur, District Surajpur, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. A.N. Pandey, Advocate
For Non-applicant- State	: Mr. B.P. Banjare, Dy. Govt. Adv.

Hon'ble Shri Parth Prateem Sahu, Judge

(proceedings through video conferencing)

ORDER

15/07/2021

1. Applicants have preferred this application under Section 438 of CrPC for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.363/2019 registered at Police Station Surajpur, District Surajpur (C.G.) for the offence punishable under Sections 498(A), 34, 376(2)(i), 465, 468 of IPC, Section 6 of POCSO Act and Section 9 & 11 of Prohibition of Child Marriage Act, 2006.
2. Case of the prosecution is that, District Child Protection Officer, Surajpur wrote letter to the SHO, Police Station-Surajpur stating with regard to filing of complaint by mother of a girl child alleging ill-treatment, harassment, assault and thereafter ousting the girl child from the house of her in-laws on the pretext of giving talaq. It is further mentioned that at the time of

marriage of minor, she was 13 years of age. After her marriage, she was being given physical and mental harassment by her husband, father-in-law, mother-in-law and first wife of her husband and also that she was thereafter ousted from the house in which all the accused persons were involved. When no action was taken by SHO of concerned police station, Child Protection Officer forwarded the complaint to Superintendent of Police (SP). After receiving the complaint forwarded by office of SP, instant crime was registered against the present applicants and Rehman Taj (husband) and Laila Khatun (mother of minor girl child) for aforementioned crime.

3. Mr. A.N. Pandey, learned counsel for the applicants would submit that the minor girl was married to Rehman Taj, son of applicant no. 2 and 3, applicant no. 1 is the first wife of Rehman Taj. The allegations are absolutely false and frivolous. Marriage of girl with Rehman was upon showing the age of girl by her mother to be 19 years. As per the allegation, the girl was married to Rehman Taj and thereafter on the basis of Talaq by pronouncing the word "talaq", she was ousted and only because of that the false report was lodged, hence, the applicant may be enlarged on anticipatory bail. He further argued that the complainant girl is present along with advocate through virtual hearing.
4. On the other hand, Mr. B.P. Banjare, learned State Counsel, opposing the submissions made by learned counsel for the applicant and submits that allegations against the present applicants are serious in nature. Girl at the time of alleged marriage was only 13 years of age. She was ill-treated mentally and physically harassed and was also ousted from the house. Girl, when came to her mother's house, she was not given entry there, after which she went to 'Sakhi', one 'stop centre' and initially made complaint to District Protection Officer from where Laila Khatun, mother of girl child, took her to the house and again sent the girl to the house of applicants in the company of her husband. They again ill-treated, harassed her mentally and physically and also assaulted her and thereafter ousted her by pronouncing

Talaq by co-accused Rehman. There is also allegation of demand of dowry. Looking to the age and seriousness of allegation, applicants are not entitled for benefit under Section 438 of CrPC. He further submits that at present also the girl is minor, aged about 16 years only. She is present in person along with advocate. Complainant submitted that now she is married to other, residing with them happily and is not having any objection if applicants are released on bail.

5. I have heard learned counsel for the respective parties and also perused the case diary.
6. Taking into consideration the nature of complaint made by District Child Protection Officer, nature of allegations, first counseling report, statement of the complainant, without commenting anything on the merits of the case, I am inclined to enlarge the applicants on anticipatory bail.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicants in connection with the crime in question (363/2019), they shall be released on anticipatory bail by the Officer arresting them on their executing a personal bond in the sum of Rs. 25,000/- each with surety in the like sum to the satisfaction of the concerned arresting Officer. Applicants shall also abide by the following conditions:

- (i) that the applicants shall make himself available for interrogation before the Investigation Officer as and when required;
- (ii) that the 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) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge