

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.703 of 2021

- Pradipto Ghosh, aged about 34 years, S/o Pushan Ghosh, R/o 1, Rajanikanta Das Road, Kolkata - 700078 (WB)

---- Applicant

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Mahila Thana, Raipur, District Raipur (CG)

---- Non-applicant

MCRCA No.704 of 2021

1. Smt. Rita Ghosh, aged about 58 years, wife of Pushan Ghosh.
2. Pushan Ghosh, aged about 61 years, son of Late Haridas Ghosh.
3. Probuddha Ghosh, aged about 27 years, son of Poshan Ghosh.

All R/o 1, Rajanikanta Das Road, Kolkata - 700078 (WB)

---- Applicants

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Mahila Thana, Raipur, District Raipur (CG)

---- Non-applicant

For Applicants	:	Mr. Ashish Shukla, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate with Mr. Roshan Dubey, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

28/7/2021

1. As the above anticipatory bail applications arise out of the same crime number, they are being heard together and

decided by this common order.

2. M.Cr.C. (A) No.703/2021 is preferred by husband of complainant and M.Cr.C. (A) No.704/2021 is preferred by father-in-law, mother-in-law and brother-in-law of complainant for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.48/2021 registered at Police Station Mahila Thana, Raipur, District Raipur (CG) for commission of offence punishable under Sections 498A, 34 of IPC. (Initially crime number is not mentioned in both the bail applications as on the date of filing of these two anticipatory bail applications no crime was registered by police against present applicants, but subsequently on 20.6.2021 instant crime was registered against present applicants and a copy of FIR is placed on record by learned counsel for applicants along with Covering memo dated 23.6.2021).
3. Case of the prosecution, in brief, is that marriage between the complainant and applicant Pradipto Ghosh was solemnized on 29.1.2016 and after marriage, the complainant started residing in her matrimonial home. In the month of October, 2019 when the complainant came to her parental home in Raipur to celebrate festival of Diwali & Bhaidooj, she fell sick, her health condition became severe and she had to undergo surgery of Polycystic Ovary Disorder (PCOD). In the year 2018 also the complainant underwent PCOD surgery. Thereafter, due to declaration of nationwide lock-down on account of pandemic Covid-19, the complainant could not go back to Kolkata.

During stay of complainant at her matrimonial home, there was demand of Rs.50 Lakh from the applicants and she was being harassed and ill treated. Applicant Pradipto Ghosh, husband of complainant, is having extra marital affairs with so many girls and the complainant came to know about this fact after reading mobile chats of her husband. Applicant Pradipto has shown himself to be unmarried in matrimonial portals. Based on written complaint dated 4.1.2021, instant crime was registered on 20.6.2021 against present applicants for the aforementioned offences.

4. Mr. Ashish Shukla, learned counsel for the applicants in both the anticipatory bail applications would submit that the complainant is a qualified lady. To fulfil desire of complainant of pursuing studies of MBA course, education loan from the bank was obtained and instalments of which are being paid by applicant-husband. He further submits that instead of discharging her matrimonial obligations towards her husband and in-laws, the complainant keep herself busy in mobile or watching television, as a result, some trivial disputes used to take place between her and her in-laws. He further submits that despite repeated phone calls by applicant husband when the complainant did not come back to her matrimonial home from her parental home, applicant husband served a legal notice upon her and thereafter filed an application under Section 13 (1) (a) of the Hindu Marriage Act, 1955 before the Court of competent jurisdiction at Alipore (West Bengal) for

grant of divorce. After getting knowledge about filing of divorce petition by applicant husband and after receipt of notice of divorce petition, the complainant has made instant complaint levelling false allegations against applicant husband and his family members. He further submits that the applicants have not committed any offence as alleged against them, hence they are entitled to be released on anticipatory bail.

He further submits that on the first date of hearing, he made his submissions on the objection raised by the Registry with regard to maintainability of these anticipatory bail applications. He submits that a Constitutional Bench of Hon'ble Supreme Court in case of **Sushila Agrawal & ors Vs. State (NCT of Delhi) and another** reported in **(2020) 5 SCC 1** while answering the reference has held in Paragraph 92.1 that it is not essential that an application should be moved after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest. In case at hand, the applicants have not directly filed anticipatory bail application before this Court, but as per procedure prescribed under the Code of Criminal Procedure, 1973, the applicants have first approached the Court below for grant of anticipatory bail to them and only after rejection of their anticipatory bail applications vide impugned orders recording that no offence is registered against applicants at Mahila Thana, Raipur. He further points out that after rejection of bail applications by the Court below, on 20.6.2021 FIR is

registered against present applicant for the offence punishable under Section 498A, 34 of IPC for which they were apprehending their arrest after issuance of notice to them from Mahila Police Station, Raipur. Applicants have pleaded that they have neither harassed nor treated the complainant with cruelty for demand of dowry. Hence, anticipatory bail applications of applicants are maintainable before this Court.

5. Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicants and submits that in written complaint the complainant has made serious allegations against present applicants. He submits that there are allegations of demand of Rs.50 Lakhs from the complainant along with other allegations. It is also pointed out that the applicant husband along with his father & brothers in the habit of consuming liquor and other intoxicated substances by arranging parties in house itself. He further submits that looking to the allegations levelled by complainant, present applicants are entitled for grant of anticipatory bail.
6. I have heard learned counsel for the parties.
7. Copy of FIR is placed on record along with Covering Memo dated 26.3.2021.
8. Taking into consideration the facts and circumstances of case, nature of allegations levelled against present applicants and the fact that complaint has been lodged only on 4.1.2021 i.e. after service of notice upon the complainant of divorce petition filed by applicant husband on 28.12.2020, without commenting

anything on the merits of case, I am of the view that present is a fit case where applicants should be granted anticipatory bail.

9. Accordingly, both the applications are allowed and it is directed that in the event of arrest of applicant **Pradipto Ghosh** in MCrC (A) No.703/2021 and applicants **Smt. Rita Ghosh, Pushan Ghosh & Probudhha Ghosh** in M.Cr.C. (A) No.704/2021, in connection with the crime in question, 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 one surety in the like sum to the satisfaction of the Arresting Officer. The applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they 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

roshan/-