

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 581 of 2021

1. Girja Shankar Dewangan, son of Late Mulchand Dewangan, aged about 36 years.
2. Smt. Kiran Dewangan, wife of Late Mulchand Dewangan, aged about 63 years.

Both are R/o Kiran Niwas, Street No.1, Pushpak Nagar, Durg, District Durg (CG)

---- Applicants

Versus

- State of Chhattisgarh Through the Station House Officer, P.S. Bodhghat, District Bastar (CG)

---- Non-applicant

For Applicants	:	Mr. Shashank Thakur, Advocate
For Non-applicant	:	Mr. Vaibhav Singh, Panel Lawyer

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

9/7/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No.106/2021 registered at Police Station Bodhghat, District Bastar for commission of offence punishable under Section 498A/34 of the Indian Penal Code.
2. The prosecution story, in brief, is that applicant No.1 was married with the complainant on 16.5.2011. Applicant No.2 is the mother-in-law of the complainant. The complainant lodged written complaint with the concerned police station on 11.4.2021 mentioning therein that when complainant returned from Raipur after giving her examination, applicant No.2- mother-in-law has taken all her ornaments on the apprehension of theft. The applicants used to torture the complainant mentally and physical on the ground that she

gave birth to two female child, whereas they wanted a boy. On 28.11.2019 applicant No.1, husband of complainant, left his place of residence at Jagdalpur and went back to his house situated in Bhilai. On call of the complainant, applicant No.1 gave threats to the complainant and asked her to take unconditional divorce from him. Based on the said complaint, instant crime is registered against the applicants.

3. Mr. Shashank Thakur, learned counsel for the applicants submits that bare perusal of allegations levelled against present applicants in the complaint (Annexure A-3) would show that the allegations levelled against are not correct. He submits that after the marriage, the complainant resided with the applicants in Bhilai and only in the year 2014 when she got contractual appointment on the post of Lecturer in Government Nursing College, Jagdalpur, applicant No.1 decided to live along with his family at Jagdalpur. As the applicant No.1 is having M.Tech degree in Computer Science, he also got contractual appointment in the Government Engineering College, Jagdalpur. He further submits that applicant No.1 continuously lived with complainant and his children in Jagdalpur till 2019. Thereafter, in the hope of better opportunity and offer, he came back to Bhilai and started living there as number of private engineering colleges are running in Bhilai and nearby areas. He submits that applicant No.2, who is 63 years old, is residing at Bhilai and not along with complainant in Jagdalpur, but even then allegations have been levelled against her. He further submitted that in order to resolve the dispute between applicant No.1 and the complainant, the applicant No.1 has submitted an application before the Counselling Centre at Jagdalpur where proceedings were drawn on 22.12.2020 & 19.1.2021 but the complainant refused before the Counsellor to reside with the applicant. Thereafter pressed the complaint against the applicants with intent to harass and pressurize them. He submits that applicant No.1, who is M. Tech. (Computer Science) and only 36 years old, is having bright future and in

case he is arrested by the police, his entire career will be ruined. Likewise, applicant No.2 is aged about 63 years and as per allegations in complaint, she was residing in Bhilai and not Jagdalpur along with complainant. Hence, the applicants may be granted anticipatory bail.

4. Per contra, Mr. Vaibhav Singh, learned Panel Lawyer for the State opposes the submissions made by learned counsel for the applicants and referring to written complaint lodged, submits that the complainant has levelled allegation of mental and physical harassment meted out to her in between the year 2012 to 2019. He submits that even there is allegation that during the stay of applicant No.1 at Bhilai after 2019, the applicant No.1 has abused and threatened her on phone. He submits that allegations levelled against the applicants are serious, hence they are not entitled for protection under Section 438 of CrPC.

On putting a specific query by the Court with regard to counselling proceedings, as stated by learned counsel for applicants, the learned Panel Lawyer after going through the case diary submitted that counselling proceedings were scheduled on 22.12.2020 & 19.1.2021, but since the applicant No.1 vide applications dated 4.12.2020 & 15.1.2021 sought time to discuss the issue with elder members of his family, the matter was adjourned. He further submits that the complainant appeared at the Counselling Centre and made her submission that she does not want to continue with the counselling proceeding, case be registered on her complaint and action be taken against the applicants.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations, the fact that applicant No.1 along with complainant shifted to Jagdalpur in the year 2014 and resided there till 2019; applicant No.1 is M.Tech. in Computer Science, whereas applicant No.2 is aged about 63 years, as mentioned in bail application, the dispute raised is with regard to ill treatment

given to the complainant, they are having two small girl child, without commenting anything on merits of the case, I am of the view that present is a fit case where the applicants should be released on anticipatory bail.

7. Accordingly, the application is allowed and it is directed that in the event of arrest of applicants 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/- 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 the case so as to dissuade him / her from disclosing such facts to the 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 them by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-