

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on : 23/06/2021

Order passed on : 25/06/2021

(Proceedings through Video Conferencing)

MCRCA No.579 of 2021

1. Rajaram Yadav, Son of Late Rampal Yadav, aged about 55 years,
2. Smt. Kusum Yadav, Wife of Rajaram Yadav, aged about 51 years,
3. Sushri Vandana Yadav, D/o Rajaram Yadav, aged about 30 years,

All are R/o BEST Chawl, No.2, Room No.2, Konkan Nagar, Chembur, Mumbai (Maharashtra)

– Applicants

Versus

State of Chhattisgarh, Through The Station House Officer, Police Station Chakarbhatta, Distt. Bilaspur (CG)

– Non-applicant

For Applicants : Shri Shashank Thakur, Advocate.

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. A.G.

Hon'ble Justice Shri Gautam Chourdiya

CAV Order

The applicants have preferred this First Bail Application under Section 438 of Code of Criminal Procedure, 1973 as they apprehend their arrest in connection with Crime No.42/2021 registered at Police Station-Chakarbhatta, Distt. Bilaspur (C.G.) for the offence punishable under Section 304B/34 of Indian Penal Code.

02. Briefly stated, case of the prosecution is that marriage of Jyoti Yadav (deceased) was solemnized with Arvind Yadav, son of applicants No. 1 & 2 and brother of applicant No.3 herein, on 4.2.2020. The applicants along with husband of the deceased used to harass her mentally and physically in connection with demand of “Swift Car” as dowry and they also suspect the character of the deceased. Hence having been fed up with this persistent ill-treatment, she committed suicide by hanging in the night intervening 5th & 6th of February, 2021 at

the government accommodation of her husband at Chakarbhata, Bilaspur. On report being lodged to the above effect, the aforesaid offence has been registered against the accused persons.

03. Learned counsel for the applicants submits that the applicants are innocent persons and have been falsely implicated in this case. The applicants have been living separately from the deceased. Applicants No. 1 & 2 are residing in Mumbai whereas applicant No.3 works in JP Morgan Services India at Bangalore vide Annexure A/3 whereas the deceased was living with her husband at Bilaspur (CG). In fact, the deceased was not happy with her marriage for being in relation with some other person with whom she used to talk over phone. When her husband came to know about this relation, he objected to it, advised her not to talk to him, on which she used to quarrel with her husband and ultimately committed suicide to get rid of this marriage. He submits that applicants No. 1 & 2 are aged persons, applicant No.2 is suffering from depression and somatization disorder, she is under regular medical supervision of Neurologist and Psychiatrist since 2007 in Mumbai vide Annexure A/5. The applicants in no manner harassed or tortured the deceased, she committed suicide out of her own frustration being not happy with the marriage, the applicants have no criminal antecedents, there is no apprehension of their absconding or tampering with the evidence or the prosecution witnesses and therefore, the applicant be released on anticipatory bail on any such conditions deemed fit by this Court.

04. On the other hand, learned counsel for the State opposes the bail application and submits that there are sufficient material in the case diary showing involvement of the applicants in commission of the crime and as such, they are not entitled for grant of anticipatory bail.

05. Heard learned counsel for the parties and perused the case diary.

06. Perusal of the case diary reveals that deceased Jyoti Yadav was married to Arvind Yadav, son of applicants No. 1 & 2 and brother of applicant No.3, on 4.2.2020 and she committed suicide in the night intervening 5th & 6th February, 2021 while living with her husband at his government accommodation at Chakarbhata, Bilaspur. The merger intimation was lodged by her husband on 6.2.2021 and the FIR was

registered on 7.4.2021 against the applicants. As per postmortem report, no any injury was found on the body of the deceased.

07. Indisputably, applicants Rajaram Yadav and Smt. Kusum Yadav, who are father-in-law and mother-in-law of the deceased, were residing separately at Mumbai and applicant Vandana Yadav, sister-in-law of the deceased, was residing at Bangalore. True it is that at the time of marriage, certain amounts were given/transferred by the parents of the deceased to the applicants in cash or in their accounts, but there is nothing to show that there was any demand by the applicants for such amount, rather the same appears to have been given voluntarily as per customs prevailing in their society.

08. As per statements of parents of the deceased, after marriage the deceased was living with her husband Arvind Yadav in the government accommodation at Chakarbhata, Bilaspur since August, 2020. Statement of father of the deceased namely Balram Yadav was recorded twice by police, first on 7.2.2021 and secondly, on 17.2.2021. The parents of the deceased have alleged against husband of the deceased regarding cruelty, assault on the deceased and demand of Swift Car from her parents. No specific allegation is there against the present applicants. Though Sumitra Devi states that mother-in-law and sister-in-law of the deceased used to complain over phone regarding dowry and demand money, but they never disclosed as to how much money they wanted.

09. From the statements of the witnesses it is clear that the applicants lived with the deceased and Arvind Yadav at Bilaspur after 18th August, 2020 till 21st November, 2020 and thereafter, returned to their respective places i.e. Mumbai and Bangalore. No any cruelty during this period was committed by the applicants. According to the witness Dr. (Mrs.) Aditi Pathak, the deceased was brought to her clinic thrice at Chakarbhata for treatment as she had fallen unconscious and was very weak and she gave her certain medicines after which her condition improved. She states that on being asked, the deceased informed her that her husband threatens her of giving divorce due to his poor health condition whereas her mother-in-law and sister-in-law forces her to have physical relation with her husband. Except this no other allegation was made by the deceased against the applicants. Harsichand Yadav, relative of father of the deceased, states that

husband of the deceased used to demand money and car from her parents.

10. Further, having received information regarding suicide by the deceased, applicants Rajaram Yadav and Kusum Yadav came from Mumbai to Bilaspur by flight vide air tickets of Annexure A/4 filed with the bail application by the applicants' counsel. As per salary slips (Annexure A/3) filed by the applicants' counsel, applicant No.3 Vandana Yadav is working in JPM Services, Bangalore from 27.3.2019 till date. True it is that the applicants resided with the deceased after 18th August, 2020 till 21st November, 2020 whereas she committed suicide in the intervening night of 5th and 6th February, 2021. No cruelty was committed by them during this period and they have been living separately from November, 2020 at Mumbai and Bangalore and came back to Bilaspur only after coming to know about suicide by the deceased. This apart, applicant No.2 Smt. Kusum Yadav, aged about 51 years, is suffering from depression and somatization disorder and is under regular medical treatment at Mumbai.

11. It is a well settled principles of law that while considering the anticipatory bail application, the Courts have to strike a perfect balance between the two conflicting interests viz. sanctity of individual liberty and interest of society. Although the power to release on anticipatory bail can be described as of an extraordinary character but this would not justify the conclusion that the power must be exercised in exceptional cases only. Powers are discretionary to be exercised in the light of circumstances of each case. [*Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others*, (2011) 1 SCC 694]. There is no "inexorable rule" that anticipatory bail cannot be granted unless the applicant is the target of mala fides. There is no invariable or inflexible rule that the applicant has to make out a special case for grant of anticipatory bail. The Court must keep in mind that a person seeking relief of anticipatory bail continues to be a man presumed to be innocent. [*Sushila Aggarwal and others Vs. State (NCT of Delhi) and another*, (2020) 5 SCC 1].

12. Thus, keeping in view the above principles of law as to the consideration of anticipatory bail, regard being had to the overall facts and circumstances of the case, the nature of allegations against the present applicants, statements of the witnesses showing that the

applicants have been residing separately at Mumbai and Bangalore, they resided with the deceased for a short span of time after 18th August, 2020 till 21st November, 2020, no cruelty was committed by them during this period, only general and omnibus allegations have been made against them, the age of the applicants i.e. 55, 51 and 30 years respectively, applicant No.2 is under medical treatment since long at Mumbai, as admitted by the State counsel there is no requirement of custodial interrogation of the applicants, they have no criminal antecedents, there is no apprehension of their absconding or tampering with the prosecution evidence or witnesses, charge sheet has not yet been filed and due to Covid-19 pandemic trial is likely to take some time for conclusion, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for extending the benefit of anticipatory bail to the applicants. Accordingly, the application is allowed.

13. 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.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the Arresting Officer, 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/her 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.

Khan

Sd/-
Gautam Chourdiya
Judge

