

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.857 of 2021

1. Shailesh Singh S/o Saroj Kumar Singh aged about 40 years.
2. Rashmi Singh, W/o Shailesh Singh, aged about 35 years.

Both R/o EWS 473, Housing Board, Bhilai, District Durg (CG)

---- Applicants

Versus

- State of Chhattisgarh, through the Station House Officer, Police Station Bhilai Bhatthi, District Durg (CG)

---- Non-applicant

For Applicants	:	Mr. T.K.Jha, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

2/8/2021

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.12/2020 registered at Police Station Bhilai Bhatthi, District Durg (CG) for commission of offence punishable under Sections 420, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 30.4.2019 complainant Vijay Sharma made complaint in the concerned police station mentioning therein that present applicants on the pretext of providing job have obtained Rs.5,50,000/- in instalments from him, but even after lapse of sufficient time neither job was provided nor amount was returned. When the police refused to register FIR on the complaint of complainant on the ground that no cognizable offence is made out, the complainant filed an application under Section 156 (3) of CrPC before the Court of jurisdictional Magistrate and after passing

of the order by the Magistrate directing for registration of FIR, instant crime is registered against present applicants.

3. Mr. T.K. Jha, learned counsel for applicants submits that complainant Vijay Sharma gave Rs.1,40,000/- to applicant No.1 for inducting him as Partner in the hospital run by applicant No.1. There was no conversation between complainant and applicant No.1 with regard to demand of any amount for providing employment. The complainant is an educated person but he has not mentioned in his complaint as to in which department and to whom applicant No.1 had promised to provide employment. He further pointed out that initially on the complaint of complainant, the police conducted inquiry and on the basis of material collected arrived at a conclusion that complaint of complainant does not disclose commission of offence of cheating. However, on the basis of order passed by the Magistrate concerned on the application filed by complainant under Section 156 (3) of CrPC, without affording opportunity of hearing to present applicants, instant crime is registered against present applicants. He further submits that applicant No.2 is working as Shiksha Karmi and she has been made accused only on the ground that some amount has been deposited in her bank account. He submits that there is no allegation that applicant No.2 ever interacted with the complainant in connection with demand of money for providing employment. Applicant No.1 being husband of applicant No.2 is aware about bank account number of applicant No.2 and he might have given the same to complainant for depositing amount.
4. Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicants and submits that there is specific allegation that an amount of Rs.5,50,000/- has been obtained by present applicants from the complainant on the pretext of providing employment. He further submits that eyewitness Mohammed

Asgar has categorically stated that an amount of Rs.2,00,000/- was paid to applicant No.1 in his presence for providing employment. A sum of Rs.1,40,000/- was also deposited in bank account of applicant No.2. Hence, both the applicants are not entitled for grant of anticipatory bail.

On a specific question being asked to learned State Counsel with respect to material showing involvement of applicant No.2 in the discussions with the complainant, he submits that there is no such material available in case diary, but it is applicant No.1 who had conversation with complainant and as per statement of eyewitness Mohd. Asgar, the complainant gave Rs.2,00,000/- to applicant No.1 in his presence.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of case; nature of allegations against applicant No.1 that he had received amount from the complainant in presence of eyewitness Mohammed Asgar for providing job; statement of eyewitness Mohammed Asgar, I am not inclined to grant anticipatory bail to applicant No.1. However, considering the fact that nothing is available in the case diary indicating that applicant No.2 had ever personally interacted with the complainant, demanded money for providing employment and asked him to deposit Rs.1,40,000/- in her bank account, as stated by learned State Counsel after going through case diary, I am inclined to grant benefit of anticipatory bail to applicant No.2.
7. Accordingly, this anticipatory bail application so far as it relates to **applicant No.1-Shailesh Singh, it is hereby dismissed.** However, bail application of **applicant No.2- Rashmi Singh is allowed** and it is directed that in the event of arrest of applicant No.2-Rashmi Singh in connection with the crime in question, she shall be released on anticipatory bail by the officer arresting her on her 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. Applicant Rashmi Singh shall also abide by the following conditions:

- (i) that she shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that she 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 the Court or to any police officer;
- (iii) that she shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that she shall appear before the trial Court on each and every date given to her by the said Court till disposal of trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-