

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 977 of 2021**

1. Falgo Prasad Tripathi S/o Late Kailash Nath Tripathi Aged About 60 Years
2. Smt. Durgesh Tripathi W/o Falgo Prasad Tripathi Aged About 55 Years

Both are R/o Behind Golden Marbel, Laxmi Nagar, Police Station Tikrapara, District Raipur, Chhattisgarh. (wrongly mentioned as Laxmi Narag in the order sheet)

---- Applicants**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Tikrapara, District Raipur, Chhattisgarh.

---- Non-applicant

For Applicants : Smt. Fouzia Mirza, Senior Advocate with
Shri Rahim Ubwani, Advocate

For Non-applicant/State : Shri B.P. Banjare, Dy. G.A.

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

26.08.2021

1. The applicants have preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as they are apprehending their arrest in connection with Crime No.489 of 2020, registered at Police Station Tikrapara, District Raipur (C.G.), for offence punishable under Sections 304(b), 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961.
2. Case of the prosecution, in brief, is that Shalini Tripathi (deceased) was married with son of the present applicants, by name, Nimesh Tripathi on 24.11.2019. After one month of marriage, Shalini Tripathi conceived and gave birth to a male child

Viraj. On 7.11.2020 at about 8.30 p.m. some dispute took place between Nimesh Tripathi (son of applicants) with his wife Shalini Tripathi, upon which, the deceased went to her bedroom and locked it from inside. After some time, when Nimesh Tripathi heard cries of his child, he knocked the door and when he did not get any response on knocking of door, he broke open the door and found the deceased hanging by means of saree and was sobbing. Applicant No.1 and Nimesh Tripathi brought her down and took her to the hospital for treatment where during the course of treatment she died on 9.11.2020 at 11.35 p.m. After merging enquiry, First Information Report was registered on 22.11.2020 against the present applicants and Nimesh Tripathi (husband of deceased) for commission of aforementioned offences.

3. Smt. Fouzia Mirza, learned senior counsel for the applicants would submit that prior to marriage, deceased was working in Mumbai, but after her marriage she lost her job, due to which, she started keeping upset in her in-laws house. She further submits that allegations levelled are mainly related to domestic disputes which occurred on account of inability of deceased to adjust herself at her matrimonial home. Allegation of demand of dowry is bald and omnibus. Referring to the statement of Smt. Pushpa Sharma, mother of deceased, recorded under Section 161 Cr.P.C., she would argue that as per allegations levelled, initially the dispute took place when husband of deceased had asked the deceased to get her pregnancy aborted and thereafter just prior to the date of incident, for a trivial issue the deceased attempted to

commit suicide. There is no whisper in the statement with regard to allegation of treating the deceased with cruelty on account of dowry. She submits that deceased was under treatment at hospital for considerable long time. After realizing her guilt, deceased herself written a note mentioning that she herself was responsible for attempt to commit suicide, which was handed over to her husband, but even after request made by son of applicants to the Police for taking the document written by deceased just before her death in record, was refused. It is contented that request was also made to take on record the CCTV footages of the hospital, wherein the incident of writing note by deceased herself and handing over it to her husband was captured, but that also was denied. The applicants are old-aged persons, investigation has already been completed and charge-sheet has been filed before the Court of competent jurisdiction without recording any proceedings under Section 82 and 83 of Cr.P.C. and applicants will appear before the Investigating Agency and before the Court, as and when they are required. She pointed out that Nimesh Tripathi (husband of deceased) was arrested by the Police during the course of investigation and he was enlarged on regular bail in MCRC No.1309 of 2021 vide order dated 05.07.2021. It is further contended that looking to the age of applicants and COVID-19 pandemic period, applicants may be enlarged on anticipatory bail.

4. Per contra, Shri B.P. Banjare, learned State counsel opposes the submissions made by learned senior counsel for applicants and

submits that there are specific allegations regarding demand of dowry, harassment and ill treatment of deceased by the applicants and son of deceased. At the time of marriage, mother and sister of deceased took hand loan to arrange dowry. Referring to the statements of Smt. Pushpa Sharma, mother of deceased, Kirti Sharma, sister of deceased, and Anita Sharma, aunt of deceased, recorded under Section 161 of Cr.P.C., submitted that there are specific allegations of demand of dowry and harassment against the applicants. He further submitted that prior to the incident, there was dispute between deceased and applicants as well as Nimesh Tripathi (husband of deceased), which made the deceased to commit suicide, hence, applicants are not entitled for grant of anticipatory bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations levelled against the in-laws of deceased, further considering the statement of mother and sister, age of applicants, who are old-aged persons (father-in-law and mother-in-law of deceased), without commenting anything into the merits of the case, I am inclined to release the present applicants on anticipatory bail.
7. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on anticipatory bail on their furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum

to the satisfaction of the arresting officer and they shall be abide by the following conditions :-

- (i) they shall make themselves available for interrogation by a police officer 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 them from disclosing such facts to the Court or to any police officer.
- (iii) they shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge