

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC (A) No. 1051 of 2021

1. Vinod Kumar Agrawal, aged about 60 years, S/o Late Shri Khemchandra Agrawal.
2. Reeta Agrawal, aged about 56 years, W/o Vinod Kumar Agrawal.

Both applicant no.1 and 2 are R/o Railway Station Road, Balangir, PS Balangir, District Balangir, Odissa.

---- Applicants

Versus

- State of Chhattisgarh Through the Station House Officer, Women Police Station, Raipur District Raipur (CG)

---- Non-applicant

For Applicants	:	Mr. Harshwardhan Parganiya Advocate
For Non-applicant	:	Mr. Vaibhav Singh, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

3/9/2021

1. This is first application under Section 438 of CrPC for grant of anticipatory bail to applicants as they apprehend their arrest in connection with Crime No.53/2021 registered at Women Police Station, Raipur (CG) for commission of offence punishable under Sections 498A r/w 34 and 377 of the Indian Penal Code.
2. Case of the prosecution story, in brief, is that complainant, who is doctor by profession, performed love marriage with co-accused Vikas Agrawal on 17.1.2016. After marriage, they started residing together in Raipur. A written complaint was lodged by complainant on 8.3.2021 mentioning therein that applicants on their visit to Raipur used to harass and torture her by saying that if their nephew i.e. husband of complainant, would have performed marriage with a girl of Agrawal Community, they could have received cash of Rs.1.5 Crore as

dowry. Other allegations in the complaint are against husband of complainant regarding ill-treatment and forced unnatural sex with her. Based on written complaint, FIR is registered on 9.7.2021 against applicants and co-accused Vikas Agrawal, husband of complainant.

3. Mr. Harshwardhan Parganiya, learned counsel representing the applicants would submit that husband of complainant is nephew of applicants; his parents died in his tender age and he was brought up by applicants. Applicants' nephew performed love marriage with complainant and thereafter they started residing in Raipur. Applicant No.2 along with others had purchased one flat in Raipur, complainant and her husband were permitted to reside there. However, applicants have kept some space of flat for themselves and on their visit to Raipur, they used to stay in that area of flat. After some time of marriage, complainant and her husband separated from each other, but complainant continued to occupy that flat. Applicant No.2 being owner of flat asked the complainant to hand over vacant possession of flat, but she refused. Complainant used to misbehave with applicants whenever they came to Raipur. Applicant No.2 and other co-owners of flat have submitted an application before the Chhattisgarh State Women Commission, Raipur against complainant on 5.3.2021 and only thereafter complainant has lodged complaint against applicants and her husband. He submits that copy of complaint submitted by applicant No.2 is placed on record as Annexure A-3, which was received by the Chhattisgarh State Women Commission, Raipur on 5.3.2021. He submits that except bald and omnibus allegation that the applicants on their every visit to Raipur have harassed complainant by saying that they could have received cash of Rs.1.5 Crore as dowry in marriage, if their nephew would have performed marriage with a girl of Agrawal community. Apart from this, there is no allegation of any demand of dowry or treating the complainant with cruelty. Hence, the applicants

may be enlarged on anticipatory bail.

4. Mr. Vaibhav Singh, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicants and submits that in FIR there is allegation of harassment to complainant. However, on query being made with regard to material available in case diary, he submits that in case diary one agreement/consent deed dated 7.10.2019 is available under which complainant and her husband have consented to reside separately and to meet once in a week for six months, which shows that relations between the complainant and her husband were not good.
5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations levelled against applicants by complainant that applicants on coming to Raipur used to harass her by saying that they would have received cash of Rs.1.5 Crore as dowry if their nephew has performed marriage in their Community and apart from this, there is no other allegation levelled against them; address of complainant mentioned in FIR is the property appearing in Annexure A-2, which is sale deed executed in favor of applicant No.2 and other co-owners i.e. B-3002, 3rd Floor Srishthi's Palazzo, Khamardih, Raipur; applicants are shown to be resident of Odisha, without commenting anything on merits of case, I am inclined to enlarge applicants on anticipatory bail.
7. Accordingly, application filed under Section 438 of CrPC for grant of anticipatory bail is allowed. It is directed that in the event of arrest of applicants in connection with 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/- (Rupees Twenty Five Thousand) 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 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 him by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)
Judge

roshan/-