

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1266 /2015

Firoz Mohammed Memon, S/o Farid Mohammed Memon, Aged About 30 Years, R/o Sakin Gram Sohagpur, P.S. Uрга, Distt. Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. Civil Line, Distt. Raipur, Chhattisgarh

---- Respondent

For Applicant : Ms. Ruchi Nagar, Advocate.

For Respondent : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18/12/2015

1. Apprehending arrest in connection with Crime No.223/2015 registered at Police Station- Civil Line, District Raipur (C.G.) for the offence punishable under Section 498(A) read with Section 34 and Section 377 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution story, in brief, the applicant was married to the complainant on 30.05.2012 and subsequently she was subjected to torture and sodomy; therefore, on the report made, the offence is registered.
3. Learned counsel for the applicant submits that this is the second marriage of the applicant as both the applicant & complainant performed marriage with the consent. She further submits that the applicant has been falsely implicated in this case, as he has divorced the wife/complainant on 24.03.2015 and the FIR is made on 05.04.2015, therefore, it is an afterthought.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perusal of the case diary would show that the report was made by the wife on 24.03.2015 wherein the allegations have been made that she was forced to see the films and thereafter was subjected to sodomy. Taking into the allegations made by the complainant, I am not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant, as perusal of case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required. Consequently, I am not inclined to allow the application.
7. Accordingly, the anticipatory bail application is rejected.

Sd/-
(Goutam Bhaduri)
Judge