

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 633 of 2016

- Himanshu Jaiswal S/O Shri Arun Kumar Jaiswal Aged About 30 Years Permanent R/O Lepo Road, District Hazaari Baag (Jharkhand). Presently Residing At 2671, S Course Dr. Apartment 908, Pompano Beach, Florida 33069 United States Of America.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Mahila Thana, District Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Manish Nigam, Advocate
For Respondent/State	:	Mr. Sumit Jhawar, Panel Lawyer
For Objector	:	Mr. Gurudev I Sharan, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

4-08-2016

1. The applicant has preferred the instant bail application under Section 438 of the Code of Criminal Procedure for grant of anticipatory apprehending his arrest in connection with Crime No. 3 of 2016 registered at Police Station Mahila Thana District Durg (CG) for the offence punishable under Sections 498-A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961.
2. As per prosecution case, a report was made that the marriage of the complainant Smt. Nidhi Nagawanwhi was performed with the applicant on 7-6-2014. Before a day of the marriage family members of the applicant came to Bhilai and demanded Rs.5 lakhs and other gold ornaments which were given to them. Thereafter, the applicant assaulted the complainant on 6-6-2014 at night on the ground that the goods given by them were not upto standard. Subsequently, on 12-6-2014 after the marriage when she came again to Bhilai, the

applicant again demanded money and stated that if money is not paid, she will not be taken back. Therefore, an amount of Rs.50,000/- was given and again money was demanded on 11-8-2014 and thereafter on 13-8-2014 he went back to foreign. It was stated that after 27-8-2014 she also joined her husband at foreign, but demand of money continued. Thereafter, in November, 2015 the applicant along with his parents went to Bhilai and again demanded Rs.5 lakhs which was not paid. Subsequently, complainant/wife was left at Bhilai and the applicant went back to foreign. On 5-12-2015 she joined at matrimonial home in foreign and she was subjected to torture mentally and physically and demand of money was also raised. On 3-1-2016 complainant was assaulted and Police was called and thereafter husband left her and never turned back. Subsequently, a notice was received for divorce on 12-1-2016 and a report was made.

3. Learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in the case. It is stated that the applicant and the complainant could not carry on their matrimonial relations and in foreign a dispute arose between the applicant and his wife/complainant. In the month of January, 2016 a phone call was made to Police, referring to Annexure A/5 he would submit that report of the officer who came there would show that the applicant had not assaulted the complainant and counseling was advised. Subsequently, it is contended that since the applicant could not continue with the marriage, on 8-1-2016 he filed an application for dissolution of marriage in foreign wherein notice was served to the complainant on 12-1-2016 and after receiving the notice for divorce, she lodged FIR against the applicant on 21-1-2016. He would further submit that the applicant has been falsely implicated in the case and no offence is

made out, therefore, considering the facts and circumstances of the case, the applicant may be extended the benefit of anticipatory bail.

- 4. Per contra, learned State counsel and also the counsel for the objector oppose the bail application.
- 5. I have heard learned counsel for the parties, perused the case diary and documents
- 6. Perused the statement of the complainant and also domestic disturbance report of the reporting officer of the USA which shows that there is some dispute between the husband and wife and wife called the Polie and thereafter no domestic violence was found. Subsequeuntly record shows that the applicant filed an application for divorce and the wife/complainant after receiving the notice for divorce, filed the first informnation report on 21-1-2016 to DSP Durg.
- 7. Taking into consideration the facts and circumstances of the case, nature of allegations leveled against the applicant, back-ground of the case and considering the series of the act between the parties, I am inclined to extend the benefit of anticipatory bail to the applicant.
- 8. Accordingly, the bail application filed under Section 438 of the Cr.P.C., is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

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

Certified copy as per rules.

(Goutam Bhaduri)
Judge

Raju