

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 33 of 2016

- Kuber Tiwari S/o Janardan Prasad Tiwari Aged About 67 Years
R/o Shri Vihar Colony, Police Station Sarkanda, District
Bilaspur (Chhattisgarh). --- **Petitioner**

Versus

- State of Chhattisgarh Through P.S. - Sarkanda, District
Bilaspur (Chhattisgarh). --- **Respondent**

For the applicant : Mr. Arun Kochar, Advocate.

For the Respondent : Mr. Sumit Jhawar, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.02.2016

1. Apprehending arrest in connection with Crime No. 671/2015 registered at Police Station Sarkanda, District Bilaspur (C.G) for the offences punishable under Section 498-A/34 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, complainant Smt. Ganga Sharma made a report that she was married to Bhupendra Tiwari who is son of the applicant on 10.03.2015 and during marriage ceremony and subsequent to her marriage, she was subjected to torture by the family members of her husband for not bringing Car and cash of Rs.3,50,000/- in the form of dowry. Therefore, she filed a written report on 6.04.2015 in P.S. Sarkanda.
3. Learned counsel for the applicant submits that the applicant who is father-in-law has been falsely implicated in this case and the complainant after marriage went to Kurushetra (Haryana) along with husband and the applicant was

residing separately at Bilaspur and the charges were clamped against this applicant on the pretext that her husband is impotent and consequently a report has been made on the false allegations, therefore, the applicant may be extended the benefit of provisions of Section 438 Cr.P.C.

4. Per contra, learned state Counsel opposes the bail application.
5. Perused the statement of the complainant wherein it appears that general allegations have been made against the applicant by the complainant. It is not in dispute that after marriage took place on 06.03.2015, the complainant went along-with her husband to Kurushetra where she resided alongwith him and returned from Kurukshetra on 06.04.2015 and as soon as she returned to the place of Bilaspur, she filed this report against the applicant on the same day itself i.e., 06.04.2015. The complainant has also made allegation of impotency against her husband.
6. Taking into such allegations against the applicant which are general in nature and also the fact that the applicant is residing separately from the complainant and her husband, I am inclined to extend the benefit of section 438 Cr.P.C., to the applicant.
7. Accordingly, the application 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 sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as

and when required;

- (ii) that he 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 any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

GOUTAM BHADURI
JUDGE

Rao