

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 8054 of 2016

1. Dushyant Sharma, Son of Mahesh Kumar Sharma, aged about 37 years, R/o. A-441 & A-442, Malviya Nagar, Jaipur (Rajasthan).

----Applicant

Versus

1. State of Chhattisgarh, Through : the Station House Officer, Police Station – Supela, District – Durg (C.G.)

---- Respondent

For Applicant	: Mr. T.K. Tiwari & Mr. Anuj Sharma, Advocates
For Respondent/State	: Ms. Sunita Jain, Panel Lawyer
For Objector	: Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20/12/2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.714/2016, registered at Police Station – Supela, District – Durg (C.G.) for the offence punishable under Section 498-A, 506, 377, 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act.
2. Case of the prosecution, in brief, is that a report was lodged by Smt. Ruchi Sharma, wife of the applicant that she was married to the applicant on 05.02.2013, subsequently, she was subjected to torture for various reasons and for demand of dowry and on a different

intervals amount of Rs.5.00 lakhs, a car and other demands were made. Few of the demands were fulfilled, however, subsequent demand could not be fulfilled, as such the complainant was subjected to extreme torture and she was also subjected to unnatural sex and assaulted and at different point of time she was subjected to physical assault. Eventually the report was lodged on 01.08.2016. Thereby the offence has been committed.

3. Learned counsels for the applicant would submit that as per photographs filed along with the bail petition would show that husband was subjected to beating by the complainant/wife and she committed such atmosphere in the house and husband in fact was subjected to severe mental cruelty at different point of time. The counsel referring the document Annexure A/2 and would submit that the report was made in the year 2014 by the complainant and after purchasing TV, two wheeler, which was given to the complainant, the issue was compromised. He further submits that thereafter, the applicant has filed a petition under Section 13 of Hindu Marriage Act narrating the entire incident, and after receiving the notice, the report is lodged by the complainant. It is further submitted that as per document filed would show that the complainant has taken back all her belonging, which has been returned by the applicant and false allegations have been attributed against the applicant. Therefore, the counsel prays that the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State as well as counsel for the Objector opposes the bail application and it is submitted that complainant was subjected to unnatural sex and also a times was given physical assault, thereby, the offence has been committed which would be evident from the medical report as a times, the applicant has given bite to the complainant, which would be evident from the medical report which shows that human teeth bite was caused, therefore, it is prayed that the applicant may not be released on bail.
5. I have heard learned counsel appearing for the parties.
6. Perused the documents filed along with the bail application as also the documents enclosed with the case diary. Initially a report was made by the wife, which was taken back in the year 2014. The document also contains an application for divorce, which was filed by the present applicant and the complainant has also filed an application under Section 125 of Cr.P.C. for maintenance. Both the parties have levelled allegations to each other. The documents filed by the applicant, which is a photographs of C.C.T.V. footage wherein identity is not denied by parties prima-facie shows that complainant also assaulted the applicant and it also appears from receipts that the complainant appears to have taken back all her belonging. Taking into the facts of this case it appears that complaint was filed after an application for divorce was filed by the applicant. Taking into such facts and the fact that the applicant is in jail since 16.11.2016, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge