

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 749 of 2017

- Amit Dubey S/o Banshi Lal Dubey, Aged About 34 Years, R/o Jaihind Nagar, Akaltara, Police Station & Tahsil Akaltara, District Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station City Kotwali, District Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Ajay Thakre, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Shri B.D. Guru and Shri S.S. Baghel, Advocates for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-11-2017

1. Heard on the application filed under Section 438 of the Cr.P.C. This is first bail application before this Court by the applicant for grant of anticipatory bail. The applicant is apprehending his arrest in connection with Crime No.242/2017 registered at P.S. City Kotwali Bilaspur, District Bilaspur, C.G. for the offence under Section 498(A), 34 of the IPC.

2. It is submitted on behalf of the applicant that complainant Abhilasha Dubey, wife of applicant has falsely implicated the applicant and his family members. In a proceeding before the Parivar Paramarsh Kendra, Mahila Thana Bilaspur, the complainant has made clear statement that she does not want to live with the parents of the applicant and wants to live only with the applicant. The complainant has deserted the applicant without any sufficient cause, on account of which the applicant filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, on the basis of which order has been

passed by the Family Court in favour of the applicant. The applicant is ready to abide by all the conditions which may be imposed while granting bail. Therefore, it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submission and submits that in the written complaint given by the complainant there is clear and categorical statement made against the applicant and others regarding the complainant being subjected to torture and cruelty by the applicant and others. Hence, the applicant is not entitled for grant of anticipatory bail.

4. Learned counsel for the objector adopts the argument advanced by the counsel for the State/non-applicant and submits that the complainant had been subjected to torture by the applicant on various occasions and after her living separately the applicant continued to torture her by sending her messages using abusive and highly objectionable language which is another mode of torture. Hence, for these reasons, the applicant is not entitled for grant of anticipatory bail.

5. Learned counsel for the applicant further submits that co-accused in this case have been granted anticipatory bail in MCRCA No.514/2017 and MCRCA No.552/2017 vide order dated 18-08-2017 relying on the judgment of Arnesh Kumar Vs. State of Bihar and Another and Rajesh Sharma Vs. State of Uttar Pradesh and Another. On this ground also, the applicant deserves to be benefited with grant of anticipatory bail.

6. Heard learned counsel for both the parties and perused the case diary.

7. As per the case against the applicant, the complainant has made serious allegations against the applicant and other members of his family regarding subjecting her to torture and cruelty for demand of dowry during her period of stay in the matrimonial home.

8. Considering this fact that the allegations made are general and not specific against the applicant alone and the co-accused persons in this case who are also targeted in these allegations made by the complainant have been benefited with grant of anticipatory bail by this Court and taking into consideration the fact that the case of the applicant cannot be singled out as different one, this Court is of the view that for the aforesaid reasons the application filed by the applicant for grant of anticipatory bail deserves to be allowed.

9. Accordingly, the anticipatory bail application (MCRCA No.749/2017) filed by the applicant is hereby allowed. 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 executing a personal bond in sum of Rs.25,000/- with one 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) that 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge