

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 1383 OF 2016

Abhishek Agrawal, aged about 33 years, S/o Late Shri R.C. Agrawal, R/o Kersen Heritage, Dubey Colony, Mowa, P.S. Pandri, Mowa, Raipur, District (Revenue & Civil)- Raipur (C.G.)

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station- Gandhi Nagar, District Surguja (C.G.)

... Non-applicant

For Applicant	:	Mr. H.B. Agrawal, Senior Advocate, assisted by Mr. Yogesh Pandey and Mr. Rakesh Thakur, Advocates.
For Non-applicant/State	:	Mr. Avinash Singh, Panel Lawyer.
For Objector	:	Mr. P.K. Patel, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/05/2017

1. This is the first application filed under Section 438 of CrPC for grant of anticipatory bail to applicant-accused who is apprehending his arrest in connection with Crime No. 196 of 2016, registered at Police Station- Gandhi Nagar, District- Surguja, for the offences punishable under Sections 498-A, 509(B), 506 of IPC and Section 67 of the Information Technology Act.

2. Learned Senior Counsel for the Applicant submits that the Applicant has been falsely implicated in the said criminal case, with a sole intention of extracting money from the Applicant. He next submits that the first complaint which has been lodged by the Complainant is of 28.8.2016, i.e., after more than about 8 months from her leaving the matrimonial home and staying separately. He further submits that in between Annexure A-3 was also executed on 27.12.2015 which was an agreement for mutual divorce on certain consideration being made, and even at that point of time

there was no allegation against the present Applicant and all these have crept up only vide the complaint dated 28.8.2016.

3. Learned Counsel for the State opposing the application submits that there are serious allegations levelled against the present Applicant in the complaint dated 28.8.2016 and therefore the present Applicant may not be entitled for the benefit under Section 438 of CrPC.

4. A bare perusal of the facts and circumstances of the case would reveal that the marriage between the parties took place on 26.2.2014; a son was born to the Complainant and the Applicant on 2.6.2015; the Complainant left her matrimonial home in December, 2015; while leaving the matrimonial home she had also executed an agreement on 27.12.2015 for divorce on mutual consent; complaint was subsequently lodged about more than 8 months later, i.e., on 28.8.2016, and from December, 2015 to August, 2016 the Complainant has not taken any steps whatsoever nor is there any allegation made during the intervening period, except for a bald allegation of obscene, vulgar and abusive messages being sent by the Applicant to the Complainant and her family members.

5. Considering the total facts and circumstances of the case, particularly the fact that the complaint has been lodged after more than 8 months of her leaving the matrimonial home and also there being no complaint whatsoever in respect of agreement dated 27.12.2015, keeping in view the judgment of the Hon'ble Supreme Court in the case of **Arnesh Kumar v. State of Bihar & Another**, 2014 (8) SCC 273, this Court is of the opinion that a prima face strong case for grant of anticipatory bail is made out.

6. Accordingly, the present application under Section 438 of CrPC is allowed. It is directed that in the event of arrest of applicant-accused in connection with Crime No. 196 of 2016, registered at Police Station—

Gandhi Nagar, District- Surguja, for the offences punishable under Sections 498-A, 509(B), 506 of IPC and Section 67 of the Information Technology Act, if he furnishes a personal bond for a sum of **Rs.25,000/-** **with one surety** of the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, then he shall be released on bail on the following further conditions :

- (i) that the applicant shall make himself available for interrogation before the concerned 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.

Sd/-
(P. Sam Koshy)
Judge