

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 451 of 2017

Abhishek Tiwari S/o Late Shri Shambhu Nath Tiwari, Aged About 32 Years
R/o Block No. 62/ H, Parijat Talpuri, Bhilai, District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through - The Police Station, Nandani Nagar, District
Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Vipin Tiwari, Advocate
For Respondent / State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order On Board

16/06/2017

Heard.

The applicant is apprehending his arrest in connection with Crime No.97/2017 registered at police station – Nandani Nagar, Durg (CG) for alleged commission of offence under Section 498-A of IPC and Section 4 of the Prohibition of Demand of Dowry Act.

2. Case of the prosecution against the present applicant is that the present applicant subjected his wife- Smt. Jaya Tiwari with ill-treatment, harassment and torture. In addition, there is also an allegation of assault being made frequently, based upon which, a report was lodged on 15/04/2017 and FIR on 17/04/2017.

3. Learned counsel for the applicants submits that the marriage took place between the applicant and the complainant in May, 2009 and the applicant and his wife has a seven years old child, who is presently in the custody of the applicant. Though as per the allegations, offence under Section 4 of the Prohibition of Demand of Dowry Act has also been registered, there are no evidence of whatsoever the applicant making demand of dowry or the present applicant subjecting the complainant to cruelty. He further submits that the allegation of cruelty has been made with mala fide intention only for the reason that the

applicant has already moved an application under Section 13 of the Hindu Marriage Act, 1955 against the complainant and in the said case, the complainant herself has entered appearance and moved an application under Section 125 of CrPC seeking maintenance and it is only to counter those proceedings that the present complaint has been registered against the present applicant.

4. Learned State counsel, however, opposes bail application and submits that the reading of the statement of the complainant reflects serious allegations against the present applicant that the complainant has been subjected to ill-treatment and harassment and therefore, the applicant does not deserve anticipatory bail.

5. Having considered rival contentions put forth by either side, *prima facie* on account of the fact that there is no demand of dowry in the statement of the complainant and the allegations also are vague and not specific and are general in nature, this Court is of the opinion that a *prima facie* strong case for grant of anticipatory bail is made out.

6. Accordingly, this application is 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 on his furnishing a personal bond in the sum of Rs.25,000/- along with one surety for the like amount to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions -

(i) that the applicant shall make himself available for interrogation by a Police 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 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.

Certified copy as per rules.

Sd/-
(P. Sam Koshy)
V. Judge