

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 654 of 2017**

Dhiraj Kumar Mishra S/o Shri Om Shankar Mishra, Aged About 29 Years R/o Quarter No.32/ A, E.Pocket, Maroda Sector, Bhilai, District Durg, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Tikrapara, Raipur, District Raipur, Chhattisgarh

---- Respondent

For the Applicant : Smt. Fouzia Mirza, Advocate.
For the Respondent/State : Shri Wasim Miyan, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.11.2017**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 229 of 2017, registered at Police Station – Tikrapara, Raipur, District – Raipur, Chhattisgarh for the offences punishable under Section 498-A/ 34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act.

3. It is submitted by counsel for the applicant that, the applicant has been falsely implicated in this case. Complainant – Neha Mishra is wife of the applicant and their marriage was performed on 25.11.2015. She stayed in

her matrimonial home only up to 3rd March, 2016 and thereafter, she is living with her parents. The story of demand of dowry has been falsely made in the FIR and the FIR was lodged in November, 2016. The fact is that the complainant had some psychological disorder on account of some incident of sexual abuse that had occurred in her childhood, because of which, the marriage between the applicant and the complainant was never consummated. This fact has been admitted by the complainant in the counseling procedure that was conducted by Mahila Thana, Raipur. The co-accused persons in this case have been granted anticipatory bail by the Co-ordinate Bench of this Court and the applicant also has a similar case. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that as per the contents of the FIR against the applicant there is clear and categoric allegation made against the applicant that he is subjected the complainant to cruelty for the purpose of demand of dowry and the statements of other witnesses also support the story. Hence, the applicant is not entitled for grant of anticipatory bail.

5. Heard counsel for both the parties and perused the case diary.

6. In the FIR lodged against the applicant, it is alleged that soon after the marriage, the complainant stayed with her in-laws in Bhilai for about 16 days where she was tortured and subjected to cruelty by her in-laws. Thereafter,

she went to stay with her husband in Bombay, where the applicant/ her husband used to abuse, beat and insult her without any reason. Thereafter, he made a demand of Rs.50,00,000/- which was required for the business of his brother which was to be met with by the father of the complainant. It is alleged that on 3rd March, 2016 the applicant turned out the complainant from his house saying that unless she brings Rs.50,00,000/- from her father he would not keep her as his wife.

7. Considering all the submissions and the contents of the case diary, the statements of the witnesses and also particularly the documents regarding reconciliation proceedings and the fact that the FIR has been lodged after sufficient delay which needs explanation and that the co-accused in this case has been granted anticipatory bail, I am of the view that the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail 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 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. He 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 them 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/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi