

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 71 of 2018

- S.P. Tiwari S/o Late Baiktesh Tiwari Aged About 68 Years R/o Sattipara Nagar, Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Mahila Thana, Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant : Mr. Manoj Paranjpe, Advocate.

For Respondent : Mrs. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

25/01/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.12/2017 registered at Police Station-Mahila Thana, Ambikapur, District – Surguja(C.G.), for the offence punishable under Sections 498-A, 294, 506B, 323 read with 34 of the Indian Penal Code (for short 'IPC').
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. It is submitted that the complainant Smriti Ojha is his daughter-in-law and her marriage with the son of this applicant was not going well, because of which she started living separately since 4.2.2017, thereafter, she made a first compliant to the Collector, Surguja on 10.4.2017, in which, no

allegation was made against this applicant. Subsequently, another complaint was filed before the Pariwar Paramarsh Kendra, Surguja on 20.4.2017, in which again no allegation made against this applicant. The development took place when the son of this applicant filed divorce petition and the complaint after appearing in that petition has lodged FIR on 12.10.2017, making files allegation against this applicant. Hence, it is prayed that applicant be enlarged on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions. It is submitted that the complainant had made a clear statement in FIR that applicant had all along supported the main accused the husband of the complainant in commission of all the offences registered in this case. Hence, he is not entitled for grant of bail.
4. Heard both the parties and perused the case diary.
5. As the case is, marriage of complainant and the co-accused Abhishek Tripathi was performed on 24.2.2012. It is alleged that the husband of the complainant started abusing and torturing her, subjecting to cruelty for demand of dowry. It is alleged that applicant had always supported the husband of this complainant with respect to the harassment and torture given to the complainant. On this basis, the case has been registered against this applicant.
6. Considered on the submissions and the contents of the case diary. Taking into consideration, the development of things that have taken place before the lodging FIR against applicant and others and also taking into consideration the view expressed by Hon'ble the Supreme Court in ***Arnesh Kumar vs. State of Bihar*** reported in **(2014) 8 SCC**

273, and *Rajesh Sharma vs. State of Uttar Pradesh and Ors* reported in (2017) 8 SCALE 313, I am of this view that applicant should be benefited with grant of anticipatory bail.

7. 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 him executing a personal bond in the 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 them by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge