

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 107 of 2018

Bidesh Paik, aged about 27 years, son of Shri Sukesh Paik, resident of village Dighirpar, Balkultala, Post-Bakultala, District South 24 Parganas, West Bengal, PIN No. 743349.

---- Applicant

Versus

State of Chhattisgarh, through, the Station House Officer, Police Station – Telibandha, District – Raipur, Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Pushpendra Kumar Patel, Advocate.
For Non-applicant/State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/04/2018

1. The present is an application under Section 438 of Cr.P.C. seeking for grant of anticipatory bail to the applicant who is apprehending his arrest in connection with Crime No. 369/2017, registered at Police Station Telibandha, District Raipur, Chhattisgarh for the offence punishable under Sections 498A, 506, of Indian Penal Code, 1860.
2. The allegation against the present applicant as per prosecution case is that the present applicant and the complainant - Smt. Sandhya Paik married in the year 2013 and since then the present applicant used to subject the complainant to ill-treatment and torture. It was alleged that the present applicant used to demand Rs. 5 Lakh as dowry from the complainant. Further, it is also alleged that the present applicant is said to have deserted the complainant and went somewhere in West Bengal.
3. The counsel for the applicant submits it is a case where no offence under Section 498-A has been made out. He further submits that the

applicant had got the complainant conceived on many occasions and each time the present applicant is alleged to have got it aborted.

4. According to the complainant the offence under Section 498A is not made out as the necessary ingredients which are required for making of the said offence are not available. Moreover from the statement of the complainant itself, it would reveal that the complainant did not enjoy the status of the wife of the present applicant as the applicant was an already married person. From the statement of the complainant it also reveals that the complainant herself knew the fact that the present applicant was an already married person and that the entire complaint seems to be a false complaint only with an intention to put undue pressure on the applicant, who had some sort of a relationship with the complainant and for all these reasons the applicant prayed for grant of anticipatory bail.
5. The State counsel opposing the bail application submits that there are serious allegations of ill-treatment, cruelty and torture made by the complainant on the present applicant and given the seriousness of the offence, the applicant does not deserve anticipatory bail.
6. Having heard the learned counsel for the parties and contentions put forth on either side, from perusal of the written complaint lodged by the complainant against the present applicant itself reveals that the complainant knew the fact that the applicant was an already married person. Perusal of the complaint also reveals that the applicant is said to have got the complainant conceived on many occasions and each time the complainant got an abortion done at the instance of the present applicant, which gives rise to a great element of doubt on the relationship between the applicant and the complainant as no

married lady would under the normal circumstances permit repeated abortions during the married life living with her husband. Further, inspite of many abortions having being got done by the present applicant, the complainant never lodged any complaint or report before any authority. Further, the natures of the other complaints which have been leveled against the applicant are all general in nature and omnibus.

7. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that present is a strong case where the applicant is entitled for benefit of Anticipatory Bail.
8. Accordingly, the application under Section 438 of Cr.P.C. is allowed. It is directed that in the event of arrest of the present applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned arresting/ investigating officer or the Court concerned, as the case may be, with the following terms and conditions:

- (i) that the applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required;
- (ii) that the applicants 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 applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(P. Sam Koshy)
Judge