

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3250 of 2018

- Abid Ahmed S/o Late Shri Dilshad Ahmed, Aged About 40 Years, R/o- Lakhi Bag, Police Station Lakhi Bag Kotwali, Tehsil And District- Dehradun, Uttarakhand.

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Civil Lines, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Mr. Arvind Shrivastava, Advocate.

For Non-applicant/State – Ms. Smita Ghai, Panel Lawyer.

Ms. Gazal Anjum Khan, Objector, in person.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-05-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 11-04-2018 in connection with Crime No.652/2016 registered at Police Station Civil Lines, Bilaspur, District- Bilaspur, Chhattisgarh for the offence under Section 498-A r/w 34 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 11-04-2018. No case is made out against him. The only reason for dispute between the applicant and his wife/the complainant is that this applicant concealed the fact of his first marriage and about having one child from the same marriage, which is not true, as the applicant had made this disclosure with the complainant. The complainant herself used to harass the applicant for various reasons and also used to threaten him for involving him in false criminal case, resultantly, because of matrimonial discord the applicant divorced her according to muslim law by pronouncing triple Talaq on 26-08-2014. Subsequent to which, the false FIR has been lodged. The applicant is ready to abide by all the conditions to be

imposed on grant of bail. Hence, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the applicant lives abroad and if he is released on bail, that will seriously affect the trial in this case, in case he leaves for abroad and looking to the fact that the allegation made against this applicant is of serious nature, the application may be rejected.

4. Objector/complainant in person has filed written objection submitting that the applicant is capable of influencing the authorities. This applicant had forced the objector, his wife to abort her pregnancy and he had concealed this fact from the complainant that he had married twice earlier and divorced and was having a child from previous marriage. It is contended that because of deceit played by the applicant he should be charged with offence of rape and there is also one criminal case under Section 498-A – 406, 34 of the IPC registered against him in P.S. Jamia Nagar New Delhi on a complaint by his previous wife. The conduct of this applicant had been very torturous as he left the complainant in a tenanted house by sending a letter of vacation to the landlord leaving the complainant in distressed condition, which shows that how he has exploited the complainant sexually and thrown her out. Hence, offence committed by this applicant is of grave nature and he should not be granted bail.

5. In reply, learned counsel for the applicant submits that before the family court a compromise is under negotiation between the applicant and the complainant, hence, on that ground the applicant may be granted regular bail.

6. Objector in person agreed to this statement that compromise has been initiated before the family court and it is submitted, that in case this Court is inclined to grant bail to the applicant, conditional bail with restrictions may be granted to the applicant by restraining him from going abroad.

7. In further reply, learned counsel for the applicant submits that the applicant is a talented person and is employed in multinational companies project, because of which, if he is restrained from going abroad, that will jeopardize his career and his source of income, hence, such kind of restriction may not be imposed.

8. Heard learned counsel for the parties and perused the case diary.

9. According to the prosecution case, the applicant and complainant Gazala Anjum Khan got acquainted with each other on Jeevansathi.com through Internet. Subsequently, the applicant and the complainant both got married on 12-10-2013, but, later on, the applicant and in-laws of the complainant started to make demand of dowry, in which, they demanded cash Rs.25 lacs, 20 Tola Gold and Toyota Car. Some of the demand was met by the complainant side. In between, the complainant came to know that she is third wife of the applicant. On enquiring about it, the complainant started torturing her, as a result of that, the FIR has been lodged.

10. This case is matrimonial dispute and one of the reasons of dispute is mistrust between the applicant and the complainant, whose present status as wife is debatable, even though, the allegation made by her is pertaining to the matrimonial relationship between her and this applicant. According to the view laid down by Hon'ble the Supreme Court in case of Arnesh Kumar Vs. State of Bihar, reported in (2014) 8 SCC 273, and Rajesh Sharma & Ors. Vs. State of U.P. & Ors., reported in 2017 (8) SCALE 313, in this kind of case where the compromise between the parties is permitted by the courts and the reason that the compromise if possible, to remove any hurdle, grant of bail is rule in such cases, although imposing restriction may be taken into consideration. Hence, after due consideration, this Court is of the view that the applicant should be granted regular bail.

11. Consequently, this application filed by the applicant under Section 439

of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed, on condition that if the applicant has to leave this country for the reason of his employment in some foreign country, he shall have to seek permission of the concerned trial Court by furnishing details of such employment in foreign country.

12. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge