

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 731 of 2018**

Mohammad Murtuza S/o Mohammad Gani Aged About 35 Years R/o Ward No. 2, Shivpur Charcha, P. S. Charcha, Tahsil Baikunthpur, District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through P. S. Charcha, District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Pragalbha Sharma, Advocate.
For the Respondent/State	:	Shri Anil S. Pandey, G.A.
For the Objector	:	Shri Samir Singh, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.07.2018**

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. 71 of 2018, registered at Police Station – Charcha, District – Korea, Chhattisgarh for the offence punishable under Sections 294, 323, 498A and 506 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant for the offence under Section 498A of the IPC. 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 the offence registered against the applicant is clearly made out according to the statement of the complainant and the witnesses in this case. Hence, the applicant is not entitled for grant of anticipatory bail.

5. Learned counsel for the Objector has adopted the arguments submitted by the State counsel.

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

7. As per the case of the prosecution, the marriage of the applicant and complainant – Shahista Khan has taken place about four years prior to the date of incident. Earlier, the applicant used to quarrel with the complainant alleging that she had not brought sufficient dowry. On the date of incident, i.e. 23.5.2018, the applicant and the complainant quarreled for the reason that the applicant was having some affair because of which, he abused, threatened and thrashed the complainant. Hence, this case.

8. Considering the entire material present in the case-diary, and also keeping in view the observations made by the Supreme Court in the cases of **Arnesh Kumar vs. State of Bihar** reported in **(2014) 8 SCC 273** and **Rajesh Sharma vs. State of Uttar Pradesh and Others** reported in **(2017) 8 SCALE 313**, I am of the opinion that the present is a fit case where the applicant is entitled to be released on anticipatory bail.

9. 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 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.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge