

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1025 of 2018**

Manish Rathore, S/o. Ramnarayan Rathore, Aged About 38 Years, R/o. House No. 67, Ward No. 35 Jay Bhagwan Gali, Darri, Police Station Darri, Tahsil Katghora, District Korba Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station Darri District Korba Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rahul Mishra, Advocate
For Respondent/State	: Mr. Ashok Swarnakar, Panel Lawyer
For Objector	: Mr. Ajay Chandra, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**11/09/2018**

1. Apprehending arrest in connection with Crime No.149/2018, registered at Police Station – Darri, District – Korba (C.G.) for offence punishable under Section 498-A/34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. No case is made out against the applicant according to the material present in the case diary. The marriage of this applicant with the complainant – Premlata Rathore had taken place on 11.06.2009 and long after the marriage, after birth of one child, false FIR has been lodged by the

complainant against the applicant and other co-accused persons. The complainant has left the matrimonial home because she has not found the status of the applicant and his family befitting to the status of her paternal home. In the counseling procedure that has taken place in the police station, the complainant has refused to go back to her matrimonial home. Subsequently, this applicant has filed a suit for restitution of conjugal rights before the Family Court, Katghora. Hence, for this reason, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that there are direct allegation against the applicant making out the prima-facie case against him, hence, he is not entitled to be released on bail.
4. Counsel for the objector adopting the arguments advanced by the learned counsel for the State submits that the complainant was subjected to torture and cruelty for demand of a four wheeler, hence, no case is made out for grant of anticipatory bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. Subsequent to the marriage that was performed on 11.06.2009 and after passing of about 9 years, a written complaint was given by the complainant to the police on 05.04.2018 and subsequent to that FIR has been lodged on 13.07.2018 in which the main allegation against the applicant is about misbehavior and ill treatment.
7. Considered the submissions made and the contents of the case diary. As it appears that the applicant himself has filed petition for

restitution of conjugal rights and there is possibility that the complainant may agree to go back to her matrimonial home as her son is still living with the applicant. Hence, considering the facts and circumstances of the case and also keeping in view the guidelines laid down by the Hon'ble 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, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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. 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 him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram