

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1301 of 2018

- Kshitij Sao S/o Balgovind Sao, Aged About 29 Years, R/o 7/C, Street N.P.A. Sector-05, Bhilai Nagar, Tahsil and District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Sector-06, Kotwali, Bhilai Nagar, Tahsil and District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Non-applicant

For Applicant – Smt. Madhulika Jha, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-10-2018

1. Apprehending arrest in connection with Crime No.403/2018, registered at Police Station – Sector-06, Kotwali, Bhilai Nagar, District Durg, Chhattisgarh for offence punishable under Section 377 of the IPC, the applicant has preferred this application for grant of anticipatory bail under Section 438 of the Cr.P.C.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The fact is this, that the complainant in this case had not allowed the applicant to cohabit with her and has left her matrimonial home by her own willingness. Hence, this is a case in which no sexual relation was established between the applicant and his wife, the complainant. The applicant has sent notice through counsel vide Annexure-A/2 on 10-08-2018 asking for restoration of his marital life, which was replied by the complainant vide Annexure-A/3 on 30-08-2018, in which, the complainant had replied that she had been ignored by her husband, the applicant and sent her to her parental home, whereas, she is always willing to reside with the

applicant, apart from making allegations of other things which can be regarded as harassment and it is replied that the applicant himself has not taken interest to take back his wife, the complainant. There is no such allegation made in this reply regarding the allegation that has been made in the FIR lodged in this case. Subsequent to this, a totally false FIR has been lodged which appears to be an improbable story. Hence, it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has made serious allegation against the applicant in the complaint made by her, regarding unnatural sexual intercourse with her stating that because of the conduct of the applicant the complainant was compelled to come back and live in her parental home. Hence, it is not a case for grant of anticipatory bail.

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

5. According to the complaint made by the complainant, marriage of the applicant with the complainant took place on 19-04-2017. It is alleged that from the very first day in the matrimonial home the complainant was compelled to do oral sex by force and compulsion, for which her submission was sought after assaulting her. It is alleged that the applicant also used to fingering her vagina and force the complainant to masturbate him and thus subjected her to torture in various manner. On this basis, the offence has been registered against the applicant.

6. It is though a case in which the complainant had made disclosure belatedly after passing of about 1½ years of her marriage, but the statement that has been made by her cannot be rejected outrightly at this stage and on that basis it can be said that the case against the applicant is supported with the evidence. Hence, for these reasons, I am of this opinion that no case is

made out for grant of anticipatory bail.

7. Consequently, the application filed by the applicant for grant of anticipatory bail is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil