

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1596 of 2018

- Pawan Kumar Roy S/o Shri Sapan Kumar Roy, Aged About 36 Years, R/o Ram Mandir, Gol Chowk Rohinipuram Raipur, Tahsil And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through SHO, Police Station D.D. Nagar District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Achyut Tiwari, Advocate.

For Non-applicant/State – Shri Avinash K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

14-12-2018

1. Apprehending arrest in connection with Crime No.344/2018, registered at Police Station – Thana- D.D. Nagar, District Raipur, Chhattisgarh for offence punishable under Section 498-A, 506 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. Complainant Smt. Jaya Roy, wife of the applicant had resided with the applicant for only about a year and thereafter she has left on her own and she is not willing to come back and reside with the applicant. An application has been filed under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the complainant. In the subsequent development, the wife/complainant has made false complaint against the applicant, on the basis of which, this offence has been registered against him. In the conciliation proceeding the complainant had made clear denial that she does not want to reside with the applicant and wants divorce, therefore, it is prayed that it is not a case of cruel treatment. 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

submitting that looking to the allegation made by the complainant, no case is made out for grant of anticipatory bail.

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

5. Marriage of the applicant with complainant Smt. Jaya Roy was performed on 13-07-2016. After residing for some time with the applicant the complainant left her matrimonial home in August 2017 and since then she is residing at Bilaspur. A written complaint was given by her to the police on 20-04-2018 after passing of about one year and thereafter repeat complaint was filed on 12-09-2018. After failure of conciliation proceeding the FIR has been lodged on 01-11-2018. Hence, this case.

6. Considered on the entire material present in the case diary. It is a clear case of matrimonial dispute. The allegation regarding demand of dowry and cruel treatment is though present, but delay in filing the complaint or lodging the FIR has to be explained in this case, further, keeping in view the guidelines 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, I am of this view that this applicant should be benefited with grant of anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge