

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 89 of 2019**

Hemant Kumar Yadav S/o Shri Durga Mohan Yadav Aged About 27 Years
Caste-Mahkul, R/o Village Pakargaon, Police Station And Tahsil
Patthalgaon, District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Patthalgaon, District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh.

---- Respondent

For the Applicant : Shri R.R. Soni, Advocate.
For the Respondent/State : Shri Rahim Ubwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.02.2019**

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. 321 of 2018, registered at Police Station – Patthalgaon, District Jashpur, Chhattisgarh for the offences punishable under Section 498A and 506/ 34 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. Complainant – Priyanka Yadav, the wife of this applicant has left her matrimonial home on her own on 9.8.2018. As the child is in custody of this applicant, the case had been going on before the

Family Court which was filed by the complainant on 21.8.2018. As the complainant wants to succeed in getting the custody of the child, she has lodged false FIR against this applicant in an arm-twisting manner making false allegation against him. The complainant has made the statement of illicit relationship of the applicant with one Gulabi Bai on her choice before some forums whereas, she has not made the statement before the rest of the forums which shows that the allegation is false. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that according to the FIR lodged and the statement given by the complainant it is a clear case of commission of offence of cruel treatment and the applicant himself has admitted in the agreement which he had entered into with the complainant that he is having illicit relationship. Hence, he is not entitled for grant of anticipatory bail.

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

6. The marriage of the applicant with complainant – Priyanka Yadav took place on 13.5.2013. They lived together for about 5 years before she left on 9.8.2018 and having one male child. The differences between the applicant and the complainant arose for the reason that the applicant is having some illicit relationship with one Gulabi Bai. As the same could not be resolved, the complainant had left her matrimonial home.

7. After considering the material present in the case-diary and the nature of the case, I feel inclined to grant anticipatory bail to the applicant.

8. Accordingly, the bail application filed under Section 438 of the Cr.P.C. is allowed.

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. 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 them 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