

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 449 of 2019**

Nazrul Islam S/o Mohamed Naim Khan Aged About 41 Years R/o Camp No.1, Road No. 18, Vaishali Nagar, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Chhawani, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicant : Shri Avinash Chand Sahu, Advocate.
For the Respondent/State : Shri Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.03.2019**

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. 74 of 2019, registered at Police Station Chhawani, District Durg, Chhattisgarh for the offence punishable under Sections 498A and 506 of the Indian Penal Code and Sections 3(kha)(ga) of the Protection of Women from Domestic Violence Act, 2005.

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 on the basis of the material placed before the Court by the prosecution. The applicant belongs to Muslim Community and he has married the complainant who was a Hindu before her marriage. She is 25 years old and she has willingly converted into Islam and married the applicant on 7.11.2017. As the family members of the complainant had not agreed and consented to this marriage, the complainant had always been attempting to bring in a settlement and agreement with her parents. The father of the complainant on some pretext called the complainant to his place and thereafter, a communication of this applicant with his wife was stopped by them and she has been wrongly confined. The complainant made an attempt to restore his marital life, thereafter, the applicant filed an application before the Court of Sub-Divisional Officer under Section 98 of the Cr.P.C. for production of his wife/ the complainant from wrongful confinement. As a counter blast to this proceeding, the complainant under the influence of her parents has lodged totally false FIR. 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 the applicant has conducted himself in a very threatening manner and he has sent numerous messages on mobile to the complainant threatening her with dire consequences in case, he discloses about the marriage to any other person. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.
6. According to the FIR lodged, the applicant and the complainant got acquainted in the year 2017 and they developed love with each other. Thereafter, they performed marriage on 7.11.2017 according to Islamic Rites. Subsequent to the marriage, the complainant was subjected to torture and cruel treatment by the applicant because of which, she left her matrimonial home and started residing in her parental home. Hence, this case.
7. Considered the entire material present in the case-diary and also considered this fact that the applicant has filed an application under Section 98 of the Cr.P.C. in which the proceedings are pending there appears to be a case of dispute regarding inter-community marriage. Hence, for these reasons, I feel inclined to grant anticipatory bail to the applicant.
8. 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