

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 466 of 2019**

Anil Upadhyay S/o Shri Ashwani Upadhyay Aged About 30 Years R/o Gandhi Chowk, Rajatalab, Police Station- Civil Lines, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Mahila Thana, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Kashif Shakeel, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****10.04.2019**

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. 26 of 2018, registered at Police Station Mahila Thana, Raipur, District Raipur, Chhattisgarh for the offence punishable under Sections 498A of the Indian Penal Code and Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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. On the basis of the FIR lodged by the complainant earlier, only the offence under Section 498A of the IPC was registered. The applicant was granted anticipatory bail by the Court below itself vide order dated 6.6.2018. In the later on development, during investigation the offence under Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been added. According to the contents of the FIR, the offence under this provision is not made out as the complainant was not abused in public view by this applicant. Apart from that, it is a case of simple matrimonial dispute, therefore, 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 written complaint given by the complainant she was sexually exploited by the applicant for a couple of years and then by the intervention of the Superior Authority of the applicant who is a police constable the marriage was performed. But later on, the applicant has started abusing and threatening the prosecutrix and showing his intention to divorce her. Hence, looking to the conduct of the applicant, 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. As per the FIR lodged, affair of the applicant and the complainant continued since 2011. During which, the applicant established physical relation with her by promising to marry her but he did not intend to marry her that is why the complainant filed an application before the police authorities in the year 2016. On the advice given by the superior authorities of the applicant, the marriage was performed on 14.7.2016. Subsequent to this incident the applicant has started torturing the complainant and abusing her by caste name, as the complainant is a member of scheduled caste, showing his intention to divorce her, hence, the FIR has been lodged.

7. After considering the entire material present in the case-diary, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

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

Nimmi