

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 748 of 2019**

Top Singh Nirmalkar, S/o. Ramswarup Nirmalkar, Aged About 28 Years,
R/o. A.C.C. Jamul, Labour Camp, Ward No. 8, Jamul, Police Station
Jamul, Tahsil and District Durg Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station
Jamul, District Durg Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sanjay Kumar Agrawal, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/06/2019**

1. Apprehending arrest in connection with Crime No.57/2019, registered at Police Station – Jamul, District – Durg (C.G.) for offence punishable under Section 498-A read with Section 34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned 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 present on record. The fact is this that the applicant is an employee of the Indian Air Force and he has to remain present in place of his posting, therefore, he has not continuously resided with his wife for

long period, therefore, the allegation made by the complainant against this applicant are totally baseless. Similarly placed co-accused persons namely Ramswarup Nirmalkar and Binda Nirmalkar have been granted anticipatory bail by this Court vide order dated 08.04.2019 in M.Cr.C.(A) No.454 of 2019. Therefore, it is prayed that this applicant may also be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that there is clear allegation of cruel treatment given to the complainant by this applicant because of non-fulfillment of demand of dowry, hence, no case is made out for grant of bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged, marriage of this applicant with complainant Vibharani Nirmalkar was performed on 26.11.2016. It is alleged that soon after the marriage, this applicant and the in-laws of the complainant started treating with cruelty the complainant, on various pretexts and also by making complaint that dowry was not given satisfactorily. Ultimately, the complainant was compelled to leave her matrimonial home and take shelter in her parental house. Thereafter, the FIR has been lodged.
6. Considered the submissions made and the contents of the case diary. After perusal of the case diary and the nature of the case against the applicant and further keeping in view the guidelines laid down by the Hon'ble 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, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

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

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge