

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 763 of 2019**

- Amit Mittal S/o Bharat Bhushan Mittal, Aged About 40 Years, R/o Vishal Enterprises, National Highway No.6, Takiya Ward Infront of Gayatri Marble, Bhandara, Maharashtra., Maharashtra

---- Applicant

Versus

- State of Chhattisgarh Through Mahila Thana Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondent

For Applicant : Shri Manoj Paranjpe, Shri P.R. Patankar and Shri Vedant Bhelonde, Advocates.

For State/non-applicant: Shri Lav Sharma, Panel Lawyer.
Shri Amiyakant Tiwari, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****18/07/2019**

1. Apprehending arrest in connection with Crime No.22/2019, registered at Police Station – Mahila Thana Durg, District Durg, Chhattisgarh for offence punishable under Section 498-A, 377, 323/34 of the IPC, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. A totally false FIR has been lodged against the applicant and others without any basis. The reason for matrimonial dispute was that the wife of the applicant was in facebook friendship with third person to which the applicant had objected, which shows that his wife was not doing proper and the applicant had the right to object in this respect. The incident took place on morning of 21-01-2019 as there had been quarrel between the applicant and his wife, because of which she left and father-in-

law of the applicant lodged the complaint in Police Station Bhandara, in which there was no allegation of any unnatural intercourse against this applicant. The medico legal examination that was conducted in Bhandara vide Annexure-A/2 shows some injury on the body of wife of the applicant, Shail Mittal. The wife of this applicant moved along with her father to Durg and there she lodged the FIR again on 26-01-2019 and she was again medically examined and report shows improvement in the injuries, which shows that a story has been developed further. Similarly, the statement that Bhandara police recorded does not disclose commission of offence of unnatural intercourse. The applicant has filed divorce petition against his wife in which he has raised the ground of unfaithfulness of his wife. Further, the wife of the applicant has not made any statement regarding unnatural intercourse in the counseling procedure in which again she has not made any mention for unnatural intercourse. Further, it is submitted that the applicant is interested to compromise and settle the dispute with his wife and also that the parents of the applicant have been granted anticipatory bail. Hence, it is prayed that this application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that looking to the statement given by the victim in this case and the medical examination report, this applicant is not entitled for grant of anticipatory bail.
4. Learned counsel for the objector submits that the victim was never examined by Bhandara police. The allegation made by the applicant against the victim is scandalizing and it is surprising as to from what

source the applicant had obtained and produced copies of the facebook chat before the Court which needs an enquiry. Regarding non mentioning of unnatural intercourse by the applicant earlier, it is submitted that the victim is a woman and therefore she was reluctant to make such disclosure. Therefore, there is no reason to hold that she is making false allegations. Hence, it is prayed that the application may be rejected.

5. In reply learned counsel for the applicant submits that Bhandara police has filed closure report in this case and the case under investigation by police of Durg is a cooked up case, hence, the application may be allowed.
6. Heard learned counsel for the parties and perused the case diary.
7. According to the FIR lodged, marriage of this applicant with complainant took place in the year 2006. It is alleged that soon after the marriage the complainant was tortured and treated with cruelty by the applicant and others for the reason that she had brought less dowry. On the occasion of birth of her son the applicant had made demand of Rs.20,00,000/- from the complainant. It is also alleged that during this period the applicant used to have unnatural sexual intercourse with the complainant without her willingness. Hence, this case.
8. Considered on the facts, circumstances and material present in the case diary. Also perused the documents filed along with the application. The submission made on behalf of the applicant may be ground for defence, but, for the present it appears that a case is made out against the applicant as it is alleged. The parents of the

applicant have been granted anticipatory bail by this Court on different footing, but, as regards this applicant, I am of this view that this not a fit case for grant of anticipatory bail.

9. Accordingly, the application filed by the applicant under Section 438 of the Cr.P.C. for grant of anticipatory bail is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil