

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1350 of 2019

- Akshay Raj Netam S/o Late Khemlal Netam Aged About 31 Years R/o Kumharpara, Village And Tehsil Chura, Police Station Chura, District Gariyaband Permanent Resident Of Srishti Colony, House No. 97, Ward No 95, Kairinbhata Rajnandgaon, Tehsil And District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Mahila Thana Durg Chhattisgarh.

---- Respondent

For Applicant	: Mr. Priyank Rathi, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A. and Ms. Shriya Mishra, P.L.
For Objector	: Mr. Vikram Dixit, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

05/11/2019

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with crime no. 52/2019, registered at Police Station Mahila Thana, Distt. Durg (C.G.) for the offence punishable under Section 498-A r/w 34 and Section 377 of the IPC.
2. In this case there are total three accused persons. As per prosecution story, the applicant is the husband of complainant Divya, her marriage with the applicant was solemnized on 29.12.2017. On 13.07.2019, a written complaint has been filed by the complainant alleging therein that after the marriage, the applicant and other co-accused persons tortured her physically and mentally on account of demand of dowry. It is further alleged that the applicant used to beat

her wife/complainant and also he committed unnatural sexual intercourse with her. On the basis of said report, offence has been registered.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that earlier, the applicant had filed an application for taking Divorce under Section 13 of the Hindu Marriage Act, therefore, as a counter blast, the complainant has filed this false report against the applicant. He further submits that an application for taking Divorce under Section 13 of the Hindu Marriage Act has been filed by the applicant in the month of March 2019 thereafter on 03.07.2019, present report has been lodged for falsely implicating the applicant. Complainant/wife residing separately since February 2018 and the FIR has been lodged after 1 year five months. Earlier also, the complainant lodged two complaints against the applicant, the first one is in Police Station Chhura, Distt. Gariyaband and the second one is in Rajnandgaon, learned Counsel for the applicant submits that in both the said reports, the complainant has not mentioned about the unnatural sexual intercourse committed by the applicant. Thus, for falsely implicating the applicant, the said reports have been lodged by the complainant. Prima Facie no case can be made out against the applicant. He finally submits that the other co-accused persons have already been granted benefit of bail by the Session Court itself, the applicant is a reputed person of his society, he is a permanent resident of above mentioned address and there is no chance of his absconding, therefore, he may be granted benefit anticipatory bail.
4. Per contra, learned counsel appearing on behalf of the State and objector opposes the bail application.
5. I have heard learned Counsel for the parties.
6. Considering the facts and circumstances of the case, evidence

collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that in earlier two reports which were made before Police Stations Chura, Distt. Gariyaband and Rajnandgaon, no allegation regarding unnatural sexual intercourse has been made by the complainant. The complainant separated from her husband since the month of February 2018 and after submission of application for taking divorce submitted by the husband/applicant in the month of March 2019, the present complaint has been filed by the complainant. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.

7. Accordingly, the anticipatory bail application is allowed.

8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:-

- I. That the accused/applicant shall made himself available for interrogation before the concerned Investigating Officer as and when required;
- II. The accused/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. The accused/applicant shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. 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/-
(Arvind Singh Chandel)
Judge