

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1210 of 2020

Sanjay Sarkar, S/o Shanker Sarkar, Aged About 32 Years Occupation - Student,
R/o Prem Nagar, Baaisi Colony, Dharamjaigarh, Police Station - Dharamjaigarh,
District - Raigarh Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station -
Dharamjaigarh, District - Raigarh Chhattisgarh.

---- Respondent

For Applicant	: Mr. Awadh Tripathi, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A.
For Objector	: Mr. Sanjay Agrawal, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

03/11/2020

1. The matter is heard through video conferencing.
2. 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. 134/2020, registered at Police Station Dharamjaigarh, Distt. Raigarh(C.G.) for the offence punishable under Sections 498-A of the IPC.
3. In the present case, the applicant is the husband of the complainant namely Manisha Sarkar. Marriage with the applicant was solemnized with the complainant on 16.02.2020. The complainant lodged complaint against the applicant alleging therein that in the year 2018-19, they entered into love affair and consequently on 16.02.2020, they performed love marriage. Thereafter, it is alleged that on 21.02.2020, after five days of their marriage, the applicant and his family members started harassing the complainant on account of demand of dowry. On 21.06.2020, the applicant demanded Rs. 4,00,000/- from the complainant as dowry, therefore, on the same day a quarrel took place between them, eventually

on 28.06.2020, the applicant sent the complainant to her parental house. Thereafter, on 09.07.2020, the complainant along with her brothers and sisters went to the house of the applicant, whereupon the accused did not allow her to enter in his house. On the basis of said background, offence has been registered against the applicant.

4. 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 from 16.02.2020 till the end of June 2020, their marriage was going well but thereupon, the applicant came to know that he has been cheated and defrauded by the complainant and her family members because before the said date of marriage, the complainant already married with other person namely Sourabh Sahis and their marriage was performed way back in the year 2010 and without taking divorce from his first husband, the complainant performed second marriage with the applicant. Upon this, the applicant enquired into the matter from the complainant but she blatantly refused to know about anything, which forced the applicant to meet Sourabh Sahis, who has executed an affidavit stating all the aforesaid facts to express his truth. Thereafter, the applicant confronted the complainant, upon which she left the house and on 09.07.2020, a meeting was called between the elders of village, wherein all the goods and belonging of the complainant was returned to her. On 09.07.2020 itself, the applicant filed a written report before the Police Authorities informing all the aforesaid facts but the said complaint was not registered and proceedings under Section 155 of Cr.P.C. was drawn. Thereafter, the complainant lodged false and fabricated report against the applicant as a counter blast. Referring the Aadhar Card of the complainant (Annexure A-2), affidavit of Sourabh Sahis, further referring Voter Identification of the complainant, it has been argued by the learned Counsel for the applicant that from perusal of the above documents it is clear that the complainant has performed marriage with Sourabh Sahis in the year 2010 and without taking divorce from Sourabh Sahis, she performed second marriage with the applicant, therefore, her second marriage is null and void. In these circumstances, the complainant is not the legally wedded wife of the applicant, therefore, no offence under Section 498-A of the IPC can be made out against the applicant. Hence, it is prayed that the applicant may be granted benefit of

anticipatory bail.

5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. Learned counsel appearing on behalf of the Objector also opposes the bail application and he also referred Voter ID and Aadhar card of the complainant. It has been argued by learned Counsel for the Objector that the complainant is a legally wedded wife of the applicant, therefore, offence under Section 498-A of the IPC is made out. He further submits that after recording FIR, the applicant used to abuse and threatened the complainant for withdrawal of the case. Hence, it is prayed that the applicant may not be granted benefit of anticipatory bail.
7. I have heard learned Counsel for the parties and perused the material available.
8. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties, documents annexed with the bail application by both the parties, it appears that the complainant is legally married with Sourabh Sahis their marriage was solemnized in the year 2010 and there is no legal divorce taken place between them. Further, On 22.01.2016, Sourabh Sahis has made a written complaint to Superintendent of Police Raigarh regarding threaten him by his father-in-law to falsely implicate in case. There is nothing on record on the basis of which it can be said that the complainant is the legally wedded wife of the Applicant, 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.
9. Accordingly, the anticipatory bail application is allowed.
10. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond for a sum of Rs. 25,000/- with one solvent 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 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