

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1549 of 2019

- Mukesh Kumar Yadav S/o Shri Mehar Chand Yadav Aged About 38 Years Occupation Major (Military), R/o 155 TA Jakrif, 56 APO, C/o HQ COSA, Near International Cricket Stadium Atal (Nagar Naya) Raipur, P.S.- Rakhi, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S. Rakhi, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Dr. N.K. Shukla, Senior Advocate along with Mr. Krishan Gopal Yadaw, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.
For Objector	: Ms. Saumya Sharma, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

15/01/2020

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. 101/2018, registered at Police Station Rakhi, Distt. Raipur (C.G.) for the offence punishable under Sections 294, 323, 506, 325 & 498-A of the IPC.
2. As per prosecution story, on 30.06.2018, complainant lodged a written complaint in concerned police station alleging therein that her marriage with the applicant was solemnized on 16.11.2005, out of their wedlock they have blessed with two children and presently those are residing with the complainant. It is alleged that after the marriage, the applicant used to torture the complainant and on

29.06.2018 also at about 11:30 PM, the applicant threatened the complainant to kill, abused her with filthy language and assaulted her with hand and fist due to which her two teeth were broken. The said incident was witnessed by her sons namely Aditya and Abhimanyu. 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 due to some dispute with the complainant. They both have performed love marriage. He further submits that *prima facie* no offence under Section 498-A of the IPC can be made out against the applicant because in FIR, incident dated 29.06.2018 is only mentioned, there is no detail mentioned in the FIR about the previous incidents, only general allegations have been made regarding cruelty and apart from Section 498-A of the IPC, all offences are bailable in nature. The applicant is the government servant and he is working in Indian Army. The Counsel finally submits that 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 of anticipatory bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. Learned Counsel for the objector also opposes the bail application and submits that the applicant has tortured the complainant since the very inception of her marriage. She further submits that the applicant used to spend his entire salary on alcohol, he used to force the complainant to do some job and earn money. The Counsel submits that to save her relationship, she never made any complaint before any authority. On the date of incident also, the applicant committed *marpeet* with the complainant, thereafter, he pressurized the complainant to withdraw her case and also threatened to kill her and her family members if she was not doing the same. Therefore, the

applicant may not be granted benefit of anticipatory bail.

6. I have heard learned Counsel for the parties and perused the case diary.
7. 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 FIR, incident dated 29.06.2018 is only mentioned, there is no detail mentioned in the FIR about the previous incidents, only general allegations have been made regarding cruelty. 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.
8. Accordingly, the anticipatory bail application is allowed.
9. 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. 20,000/- 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