

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.16 of 2020**

- Wasim Qureshi S/o Abdul Rashid Qureshi Aged About 31 Years R/o Shivdhari Pratappur Naka, Police Station Gandhi Nagar, Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Sarsinva, District Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- **Respondent****Present:-**

Shri Rahim Ubwani, counsel for applicant.

Shri Lalit Jangde, GA for State.

Shri Amit Kumar, counsel for Objector.

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava
Order On Board**21/01/2021**

Heard.

1. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.283/2019, registered at Police Station–Sarsinva, District Balodabazar for alleged commission of offence under Sections 498-A, 294, 323, 506, 34 of IPC and Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019.
2. Case of the prosecution is that the applicant harassed his wife and also used abusive language against her. The applicant left his wife to parental house and also declared her as divorced over telephone as also threatened his wife that he would be making viral her obscene photographs.
3. Learned counsel for the applicant submits that there exist a dispute between the parties and even according to the prosecutrix, she left her matrimonial house of her husband on 03-02-2019. When dispute could not be settled, finally, the present applicant filed a suit seeking decree of divorce on 15-07-2019 and as a counter blast, FIR was registered against him on 15-09-2019. Learned counsel for the applicant would submit that the allegations against the present applicant of using abusive language against his wife as also

declaring divorced by saying his wife “तलाक, तलाक, तलाक” over telephone are false and fabricated and the applicant has never said like that nor he has divorced his wife. It is lastly submitted that the applicant filed a suit for decree of divorce in accordance with law.

4. On the other hand, learned State counsel as well as learned counsel for the Objector opposed the prayer for grant of bail by submitting that the applicant and his family members had been harassing the prosecutrix in many ways and she was not even kept in the matrimonial house and deserted by the husband. When the counseling was held on a report being lodged on 15-09-2019, though all assurances for proper treatments were given by the applicant, but the applicant-husband did not make any attempt for bringing back his wife to matrimonial house and started threatening his wife by stating that he would be circulating obscene photographs of his wife and declaring his wife as divorcee over telephone.

5. On prima facie consideration, this Court finds that the wife is alleged to have been deserted by her husband on 03-02-2019 and since then, the prosecutrix-wife is living in her parental house. The applicant has filed a suit seeking decree of divorce on 15-07-2019 and therefore, the allegation that the wife was already divorced appears to be improbable and further taking into consideration that the report has been lodged in the police station on 15-09-2019, which is subsequent to filing of suit for grant of decree of divorce, in the absence of there being any specific evidence of injury found on the body of the prosecutrix, the anticipatory bail application on behalf of the applicant deserves to be and is accordingly allowed, subject to the following conditions:-

(A) The applicant shall be released on anticipatory bail on furnishing a personal bond for a sum of Rs.25,000/ with two local surety in the like sum to the satisfaction of the arresting officer.

(B) He shall make himself available for interrogation by a police officer as and when required

(C) He 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 from disclosing such facts to the Court or to any police officer, *and*

(D) He shall cooperate with the investigation as and when he is called.

6. Accordingly, the bail application (MCRCA No.16 of 2020) is allowed.

SD/-
(Manindra Mohan Shrivastava)
Judge