

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C. (A). No. 98 of 2021

Mohammed Irshad S/o Mohammed Ijrail, Aged About 35 Years,
 Permanent R/o -Sabri Road, Farid Nagar, Police Station -Supela Bhilai,
 District -Durg (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Police Station -
 Mahila Thana, Bilaspur, District – Bilaspur, (Chhattisgarh).

--- Respondent

For Applicant	: Mr. Arvind Dubey, Advocate.
For Respondent-State	: Ms. Anjali Singh Chauhan, PL.
For Objector	: Ms. Reen Singh, Advocate.

(Proceedings through video conferencing)

Hon'ble Shri Parth Prateem Sahu, J

Order on Board

06/07/2021

Heard.

1. Applicant has filed this bail application under Section 438 of the Cr.P.C. apprehending his arrest in connection with Crime No.40/2020 registered at Police Station -Mahila Thana, Bilaspur, District – Bilaspur, (CG), for commission of the offence punishable under Section 498 A/34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that complainant -wife Saba Baksh got married with the present applicant on 25.12.2011, after the marriage applicant-husband went to his place of employment ie Sharjah, Dubai, leaving his wife in the company of his parents at Durg. After some time ie three months, applicant returned to India and took the complainant to Sharjah, Dubai and started residing there. From the initial date of marriage, applicant and his parents have started stating that the gift articles of marriage were of low standard/quality and even the car and Rs.15 lac cash has not been given as dowry. Applicant was being ill treated since inception of the marriage for one reason or other. She was

also harassed on account of her inability to conceive a child. During the stay of complainant at her matrimonial house in Durg, her-in-laws removed the maid servant and they asked her to perform all the household work. The family members of applicant have also taken her to Doctor and have given Injections took some photographs and also stated her that she will not be in a position to face the members of the community. In the month of February 2020, when complainant wanted to return to in-laws house after attending last rites ceremony of her grandmother, she was not permitted to enter into the house, thereafter, instant crime was registered against the applicant-husband and his parents.

3. Shri Arvind Dubey, learned counsel for the applicant submits that allegations levelled against the applicant and his parents are absolutely false and baseless. It is the complainant who was not residing with the applicant in peaceful manner. During the period of her stay with applicant in Dubai, she has threatened the applicant of committing suicide or implicating him in a false case. Learned counsel further submits that after returning from Dubai, complainant came to her parental house situated in Bilaspur and when applicant came to his house to take her back, she refused to accompany him. Thereafter, applicant moved an application for grant of divorce under the Muslim Law before the Family Court, Durg. (Annexure A-2). After receipt of notice issued by the Family Court on the application for grant of divorce complaint has been lodged against the applicant. The allegations levelled against the present applicant in the complaint are baseless and after thought.

4. Per contra, Ms. Anjali Singh Chauhan, the learned State Counsel referring to the written complaint lodged by the complainant submits that

immediately after the marriage, parents of applicant have started stating that the gift articles given in the marriage are of low standard/quality, if the marriage of their son is performed in Uttar Pradesh, they would have got Rs.15 lac cash and a Car in dowry. She also referred to some paragraphs of complaint wherein it is mentioned that in order to harass the complainant parents of applicant have removed the maid servant and asked the complainant to perform all the household. She also referred to the incident narrated that the complainant was taken to the Doctor by the parents of applicants where Injections and Anesthesia was given to her, due to which, she could not conceive pregnancy.

5. On putting a specific query to learned State Counsel with regard to the date, month and year on which complainant was taken to the Doctor by the parents of applicant for giving Injections and Anesthesia, upon going through the copy of complaint, she replied that no specific date, month or year has been mentioned therein.
6. Ms. Reena Singh, learned counsel for the Objector opposes the submissions made by learned counsel for applicant and pointed out that the affidavit submitted by applicant is a concocted documents, the signature of applicant at two places of the deponent are different and not the same. She further submits that from the beginning of marriage, complainant has been harassed for one or other reason. The applicant was having extra-marital relation with one Zahira Begum with whom he wanted to perform marriage. She further submits that when complainant came back from Dubai and went to her parental house to attend last rites ceremony of her father in the Month of June, 2019 within a period of three months from the said date applicant has filed an application for grant of divorce before the Family Court, Durg which itself shows the

intention of applicant that he does not want to keep the complainant in his company. Parents of applicant were not happy with the gift articles brought by complainant at the time of marriage, therefore, they have harassed her. They have also stated in front of her that if the marriage of their son is performed in Uttar Pradesh, they could have got Rs.15 lac cash and a Car in dowry. She further pointed out that complainant still wants to live in company of her husband, therefore, she approached the Sakhi Centre for counseling and notice have been issued to applicant but he did not turn up for counseling, therefore, as a last resource, complaint has been lodged by her.

7. At this stage, learned counsel for the applicant submits that it is the applicant, who in pursuance of the order passed by this Court, came to Bilaspur and sworn affidavit at Bilaspur, he has also signed the register of the Oath Commissioner at Bilaspur itself.
8. Heard learned counsel for the parties.
9. Indisputably, marriage of complainant with present applicant took place on 25.12.2011 and after some time of marriage, she started residing with the applicant in Sharjah, Dubai ie place of his employment. In the Month of June, 2019, complainant alongwith the present applicant returned to India to attend last rites ceremony of her father. Filing of application for grant of divorce petition before the Family Court, Durg on 03.09.2019 and lodging of complaint by the complainant against the applicant on 04.12.2020 ie after service of notice of divorce petition on complainant have not been disputed by the learned counsel for the Objector. The allegation of bringing the sub standard quality of gift articles in marriage and the statement made by the parents of applicant of Rs.15 lac cash and a Car appears to be of the year 2011.

10. Considering the entire facts and circumstances of the case, nature of allegation and further the fact that applicant has been granted benefit of an Ad-interim Bail vide order dated 18.06.2021, I am inclined to grant anticipatory bail to the applicant.

11. Accordingly, application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, he shall be released on anticipatory bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the 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) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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/-
(Parth Prateem Sahu)
Judge

Jamal/-