

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 171 of 2021**

Ashutosh Sao S/o Kailash Nath Sao Aged About 32 Years R/o Ritzs 53, Ganpati Vihar Colony, Borsi, Tahsil And District Durg Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through The District Magistrate, Raipur, District Raipur Chhattisgarh.

---- Non-applicant

 For Applicant : Shri Amiyakant Tiwari, Advocate
 For Non-applicant/State : Shri B.P. Banjare, Dy. G.A.
 For Objector : Shri Kashif Shakeel, Advocate

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**26.07.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.02 of 2021, registered at Police Station Mahila Thana, Raipur (C.G.), for offence punishable under Sections 377, 498-A, 406, 506-B read with Section 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, complainant was married with the present applicant on 25.06.2019. Applicant and his family members after engagement ceremony, make demand of gift articles of their choice. At the time of marriage also, they have demanded money, which was honored by father of complainant. After marriage, for the first time, when applicant and complainant

visited her parents house, at that time also, present applicant ill-treated her and made unnatural sex with her. As the complainant prior to her marriage was working at Delhi, after giving resignation, she had to live there for the notice period, but even at the time of her stay at Delhi, present applicant had not made any arrangement and not given her any financial support, thereafter, she took help from parents for money. When in February 2020, complainant reached to Germany, at that time also, present applicant pressurized her to withdraw the amount of Rs.4 Lacs, which was kept by her father in Fixed Deposit in her name in the Post Office, which she refused and for this reason also, applicant harassed and ill-treated her. All the family members have made demand of dowry, ill-treated her and even when once the complainant intimated her father-in-law, mother-in-law and sister-in-law about the commission of unnatural sex by the applicant, they have stated that present applicant is her husband. When the complainant returned back from Germany to India under Vande Bharat Mission, she got infected with COVID-19 and after recovery, written complaint has been lodged by her in the concerned Police Station and Mahila Police Station, based upon which, initially Family Conciliation Proceeding was initiated, but applicant did not appear and First Information Report has been registered against the present applicant, father-in-law, mother-in-law, sister-in-law as also the brother of applicant.

3. Shri Amiyakant Tiwari, learned counsel for the applicant submits that absolutely false and frivolous allegations have been levelled

against the applicant. He further submits that brother who is residing at other place has also been implicated in the instant crime. It is contended that as the complainant could not able to join the applicant immediately after the marriage for Germany due to her service condition, she reached Germany after some time where they have stayed for about three months together. Complainant returned back to India under Vande Bharat Mission, but it is the applicant who himself went to drop the complainant to Airport. On line ticket for 05.06.2020 is fled with covering memo. It is submitted that applicant is a Research Scholar and working at Germany, but due to spread of COVID-19, he could not get permission to travel from Germany to India, hence, he could not participate in the Family Conciliation Proceeding. It is further contended that after lodging of complaint before the Police Station, complainant has further filed an application under Section 125 of the Cr.P.C. for grant of maintenance and an application for grant of divorce before the Court of competent jurisdiction. He submits that on similar allegation of ill-treatment and harassment on account of demand of dowry, other co-accused persons have been enlarged on bail by the Court below, but application of present applicant was dismissed on the ground that applicant did not participate in the Family Conciliation Proceeding, he submits that due to compelling circumstances, he could not participate at that relevant time. He further submits that allegations levelled against the present applicant by the complainant with regard to commission of unnatural sex is false on its face as in terms of the First Information Report filed along with objection, wherein it is

allegation of the complainant that she intimated of the fact of unnatural sex to her father-in-law, mother-in-law and sister-in-law, during their stay at Durg to which, they have stated that applicant is her husband. He lastly submits that as the allegations are false and frivolous, applicant may be enlarged on anticipatory bail.

4. Per contra, Shri B.P. Banjare, learned Deputy Government Advocate representing the State vehemently opposes the bail application and read over the contents of First Information Report filed before the concerned Police Station as well as Mahila Police Station and submits that there are serious allegation of demand of dowry and further commission of unnatural sex by the applicant, hence, present applicant is not entitled for grant of anticipatory bail.
5. Shri Kashif Shakeel, learned counsel for the objector submits that applicant along with his family members at the initial date of marriage, made demand of dowry and harassed not only the complainant but her parents also. He further submits that initially demand of Rs.1.50 Lacs was made, which was honored by the father of complainant, thereafter, an amount of Rs.1 Lac has been sent to complainant as the applicant was not maintaining the complainant at Delhi while her stay at Delhi before going to Germany. He further submits that harassment is aggravated when complainant refused to withdraw the amount of Rs.4 Lacs which was kept by her father in her account in Fixed Deposit with the Post Office. It is contended that in Germany also applicant harassed and ill-treated her. On the application made by the

complainant before the Indian Embassy at Germany with regard to ill-treatment by the applicant, her application was accepted and she was permitted to travel from Germany to India under Vande Bharat Mission. It is further contended that applicant is enjoying at Germany though he is Research Scholar and did not want to join the proceeding, which is pending before the Court of competent jurisdiction and for this reason only, he did not join the Family Conciliation Proceeding initiated by the competent authority. He lastly submits that looking to the nature of allegation levelled against the present applicant by the complainant in her written report, present applicant is not entitled for grant of anticipatory bail.

6. I have heard learned counsel for the parties.
7. Undisputedly, marriage of the complainant with present applicant was solemnized on 25.06.2019, thereafter, due to her service condition, she has to stay at Delhi and she went Germany only in February 2020 where she stayed with the applicant for about three months and returned back to India under Vande Bharat Mission.
8. Taking into consideration entire facts and circumstances of the case, contents of First Information Report and nature of allegations made by the complainant and further considering the period of marriage, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.

9. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall be abide by the following conditions :-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) 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.

(iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge