

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC (A) No.243 of 2021**

1. Smt. Sudha Sharma, W/o Shri Umashankar Sharma, 54 years.
2. Sumit Sharma, S/o Shri Umashankar Sharma, 30 years,  
Both R/o 82, Sunder Nagar Extension, Sukhalia, Indore (MP)

**---- Applicants****Versus**

- State of Chhattisgarh, through PS- Basantpur, District-  
Rajnandgaon (CG).

**....Non-applicant**


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|-------------------|---|--------------------------------|
| For Applicants    | : | Mr. Prafull Bharat, Advocate   |
| For Non-applicant | : | Mr. A. Kumbharni, Panel Lawyer |
| For Objector      | : | Mr. S.S. Baghel, Advocate      |

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**Hon'ble Mr. Justice Parth Prateem Sahu**  
**Order On Board**

**01/04/2021**

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No.263/20 registered at Police Station Basantpur, District Rajnandgaon for commission of offence punishable under Section 498A r/w Section 34 of the Indian Penal Code.
2. The prosecution story, in brief, is that complainant Akansha Upadhyay has been married to applicant No.2 on 9.2.2020 at Indore (MP). Prior to her marriage, the complainant was residing in Indore being employed with a private company. On 6.7.2020 the complainant filed a written complaint before the Mahila Police Station, Rajnandgaon against applicants herein making allegation of ill-treatment and torture for demand of dowry. Based on this complaint, the Mahila Police Station issued a notice to the complainant as also applicant No.2 calling upon them to appear for counselling on 25.7.2020. Instead of appearing for counselling, applicant No.2 sent reply

to the notice through registered post annexing certain photographs and chats of the complainant. On 29.7.2020 FIR was registered against the applicants for the offence punishable under Section 498A/34 of IPC.

3. Mr. Prafull Bharat, learned counsel for the applicants submits that after the marriage, behaviour of complainant was not normal and during honeymoon trip, the complainant made demands for liquor and cigarette, which annoyed the applicant No.2 and since then relation between them were not good. He further submits that the complainant used to remain out of house on the pretext of her job and return at about 8 or 9 p.m., whereas she has lost her job in the month of December, 2019 itself. The complainant used to keep herself busy on mobile phone and used to keep her mobile locked with security code. On being pressurized, the complainant told password of her mobile phone and when her mobile was opened and searched, certain highly objectionable photographs & chatting were noticed by applicant No.2, which he has informed to the parents of complainant also. Thereafter, the complainant and applicant No.2, out of their own free will and without any pressure, had visited the office of Notary Shri Daulatram Dumoliya, Advocate of Indore (MP) and got notarized a mutual divorce deed. On 6.6.2020 while taking the complainant with her, the mother of complainant has given in writing that she is taking the complainant with her and she will take care of her. He further submits that applicant No.2 through his advocate sent registered notice to the complainant calling upon her not to take any action against applicants and to give mutual divorce. After issuance of registered notice by applicant No.2, the complainant has lodged FIR against the applicants. He also submits that allegations levelled against the applicants are false and baseless, hence the applicants be extended benefit of anticipatory bail under Section 438 of CrPC.

4. On the other hand, learned State Counsel submits that on the

basis of written complaint filed by complainant making specific allegation of ill treatment, harassment and demand of dowry, FIR was registered against the applicants. Hence, the applicants are not entitled for any protection under Section 438 of CrPC. He further submits that despite receipt of notice for counselling sent by the Mahila Police, Rajnandgaon, applicant No.2 did not turn up and instead thereof sent a reply annexing certain documents.

5. Mr. S.S. Baghel, learned counsel for the Objector submits that since beginning the applicants are demanding dowry of Rs.5 Lakhs and due to non-fulfilment of the said demand, the complainant was subjected to ill-treatment and cruelty by them by assaulting her and by not providing sufficient food to her. He further submits that intention of applicants clearly appears that they do not want to keep the complainant without dowry, therefore, applicant No.2 did not respond to the notice and appear before the Mahila Police Station for counselling on 25.7.2020.
6. I have heard learned counsel for the parties.
7. Date of marriage is 9.2.2020. Registered notice sent by applicant No.2 through his advocate mentions several acts and instances between applicant No.2 & the complainant. Fact of visiting the Notary at Indore for executing document for mutual divorce is also mentioned in the notice, which stands verified from the statement of Notary Shri Daulatram Dumoliya, Advocate of Indore (MP) recorded under Section 161 CrPC by the police during the course of investigation, in which he has categorically stated that both the parties i.e. applicant No.2 and Akansha, came to him and executed a document for mutual divorce. Perused the photographs, chats etc. annexed by applicant No.2 in the reply sent by him to the notice issued by the Mahila Police Station, Rajnandgaon for counselling. In the course of investigation, the police recorded

statement of complainant and said Notary under Section 161 CrPC, but the statement of the mother of complainant, who went to Indore and brought back the complainant with her, has not been recorded.

8. Taking into consideration the nature of allegations, materials available in the case diary, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicants.
9. Accordingly, the application is allowed and it is directed that in the event of arrest of applicants in connection with the crime in question, they shall be released on anticipatory bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
  - (i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
  - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
  - (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

**Sd/-**  
(Parth Prateem Sahu)  
Judge

roshan/-