

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 327 of 2021**

Kishore Venkat, S/o. Srinivas Venkatesh, aged about 30 years, R/o. Gulabnagar Mopka, District – Bilaspur (C.G.).

----Applicant

Versus

State of Chhattisgarh, Through : the Station House Officer, Police Station – Mahila Thana, District – Raipur (C.G.)

---- Respondent

For Applicant	: Mr. Rahil Arun Kochar, Advocate with Mr. Pranjal Agrawal, Advocate
For Respondent/State	: Mr. Ashish Tiwari, Govt. Advocate
For Objector	: Mr. Pragalbha Sharma, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**26/05/2021**

1. Apprehending arrest in connection with Crime No.15/2021, registered at Police Station Mahila Thana, District – Raipur (C.G.) for offence punishable under Section 498 (A), 34, 377 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case by the complainant on the basis of false FIR lodged by her. The fact is this that subsequent to the marriage of this applicant with the complainant, they could not get along well. The applicant then filed a petition for judicial separation, before the Family Court, Bilaspur.

After service of notice upon the complainant, she firstly made an attempt to compromise with the applicant and the proposals were sent by her through social media. The complainant had by herself left the matrimonial home regarding which, complaint was given in the police station, on which, notice under Section 155 of Cr.P.C. was given. FIR has been lodged on 01.02.2021 as a counter blast to the proceeding initiated by the applicant. It is further submitted that the FIR dated 01.02.2021 does not make a single mention of any unnatural sex against this applicant. The statement of the complainant was recorded later on under Section 161 of Cr.P.C., in which, she has developed her statement in making allegation of unnatural sex against this applicant. Copy of the counseling procedure has also been filed, in which, again there is no mention about any such act of the applicant. Therefore, the allegation made by the complainant regarding unnatural sexual act is newly developed story. Reliance has been placed on the order of Madhya Pradesh High Court in *M.Cr.C. No.8890 of 2021* between the parties *Dr. Sunil Manohar Singh Vs. The State of Madhya Pradesh* dated 17.05.2021.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that written complaint has been given on 10.09.2020. It was after failure of the counseling procedure, the FIR has been registered on 01.02.2021. The marriage of the applicant and the complainant has lasted less than one year. On the very next opportunity, the complainant has given statement under Section 161 of Cr.P.C. when her statement was recorded on 03.02.2021, she has stated that she has compelled by her husband to submit for unnatural

sexual intercourse, therefore, this is not a case of any after thought. The applicant does not deserve to be benefited with grant of anticipatory bail.

4. Counsel for the complainant/objector opposes the application and also submits that there is no such requirements that FIR should contain each and every fact, which has to be stated in the evidence. Complainant has without any delay made the disclosure about her being subjected to unnatural sex by the applicant. Therefore, there is no case present for grant of anticipatory bail.
5. In reply, counsel for the applicant submits that it is a case based on concocted evidence. Reliance has been placed on the judgment of Bombay High Court in case of *Kamlesh Ghanshyam Lohia & Ors. Vs. State of Maharashtra*, reported in 2019 SCC OnLine Bom 1762.
6. I have heard the learned counsel for the parties and perused the case diary and the documents.
7. The brief facts of the case are this that the complainant S. Sandhya and this applicant got married on 05.02.2020 in Raipur. On the basis of written complaint given by the complainant, FIR has been lodged on 01.02.2021, in which, it is alleged that soon after the marriage, the applicant and other in-laws started making demand of Rs.5.00 lakhs in dowry from the complainant. The complainant was tortured and beaten for fulfillment of demand and she was driven out from her matrimonial home and also her belongings were sent to her parental house. The complainant has given details of the unnatural sexual act by this applicant in her statement under Section 161 of Cr.P.C..

8. Considered on the submissions. The facts and circumstances that are present in this case are sufficient to initiate prosecution against this applicant. Looking to the allegation that are present against this applicant, specifically regarding the commission of unnatural act, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
9. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Vacation Judge

Balram