

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 696 of 2021**

- Harshu Tiwari, aged about 26 years, s/o Sunil Kumar Tiwari, R/o Flat No.342 Sobha Morzaria Grandeur Apartment, No.4, Bannerghatta Road, near diary circle Bangalore (Karnataka), Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh Through Police Station Mahila Thana, Durg, Chhattisgarh

---- Respondent

For Applicant	: Shri Bharat Sharma, Advocate
For Respondent/State	: Shri Sudhir Sahu, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

20.07.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.71 of 2020 (wrongly mentioned in impugned order as 71/2021) registered at Police Station Mahila Thana, Durg, Chhattisgarh for commission of offense punishable under Section 498-A and 34 of IPC.
2. Case of the prosecution, in brief, is that, complainant and applicant were married on 22.11.2019 at Durg. On 04.12.2020 she submitted a written complaint to Station House Officer, Police Station Sector-6, Bhilai Nagar, District-Durg (in bail application, address is- Mahila Thana Durg, Chhattisgarh), mentioning therein that after marriage, she went to her matrimonial house at Bangalore on 23.11.2019. Immediately after reaching at Bangalore, she has been kept in a room without performing any ritual. She was neither permitted to come out of the room, nor she was allowed to meet with relatives and neighbors. Applicant and his family members, Father-in-law, Mother-in-law and Sister-in-law asked her to bring Rs.25,00,000/- for which applicant started

harassing and ill treating her. Her husband, present applicant was drug addict and he was given treatment for the same. Due to some customary puja at her parents' house at Durg on 03.12.2019, she and her husband came there. Prior to coming Durg, she was again reminded by her in-laws to ask for Rs.25,00,000/- from her father and thereafter, she was assaulted. After coming to Durg, she asked present applicant not to make demand of Rs.25,00,000/- from her father, upon which, he became aggressive and assaulted her in her parents' house at Durg. All the family members were out of house at that time and therefore, after hearing noise, tenant residing in the same building came there for her rescue. When the family members returned back to their house from Arankal, then she intimated all the happenings and facts to her father. On 05.12.2019, she returned back to Bangalore. On 24.12.2019 present applicant entered in her room in intoxicated condition and started assaulting her. On 03.01.2020, she was again sent to Durg for bringing Rs.25,00,000/-. On 4th January, 2020, applicant again assaulted the complainant in her parents' house. This was intimated to her Aunt (Bua) and Sister. She again returned back to Bangalore along with her husband. On 05.03.2020, again she was assaulted by all her in-laws and after taking all ornaments, jewelery from her, she was left at Bangalore Airport on 07.03.2020. Due to illness, she was taken to Manjunath Hospital at Bangalore on 03.03.2020 and thereafter, due to weakness, she suffered miscarriage. Based on aforementioned written report dated 04.12.2020, FIR was registered on 04.12.2020, against the applicant (husband), Father-in-law, Mother-in-law and Sister-in-law.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri Bharat Sharma, learned counsel for the applicant would submit that allegation leveled against applicant and his family members are absolutely false and baseless. It is complainant/wife, who was finding it difficult to reside with family of applicant, which made her to file false complaint on the advice of others. There was no ill-treatment or assault as alleged in FIR, but relationship of complainant with applicant was cordial. In support of his contention, he referred to Annexure-A5, which is mobile chat from account of Arpita Mishra, complainant. He further submits that marriage took place on 22.11.2019, complainant reached Bangalore on 23.11.2019. Thereafter, she visited Durg twice and left her matrimonial house on 07.03.2020, within a short period of only five months. He further submits that looking to period of marriage, relationship between them during that period as husband and wife, and in the facts of the case, applicant may be granted benefit under Section 438 CrPC.

5. On the other hand, Shri Sudhir Sahu, learned Panel Lawyer for the State opposing the submissions of learned counsel for the applicants, submits that immediately after marriage, complainant was ill-treated , harassed and even assaulted by applicant and his family members. There was specific allegation of continuous demand of Rs.25,00,000/- after the marriage. Applicant assaulted complainant not only in Bangalore, but also in her parents' house at Durg. She intimated act of assault by applicant to her relatives at Durg during their stay at Durg.

Amount of Rs.6,76,000/- was transferred through Bank a/c, which is also evident from copy of Passbook available in case diary. Applicant has been alleged to be a drug addict and under the influence of drugs, he used to ill-treat complainant and also assaulted her, hence he is not entitled for benefit under Section 438 of CrPC.

6. At this stage, Shri Bharat Sharma, learned counsel for the applicant submits that alleged transfer of amount of Rs.6,56,000/- as stated by learned counsel for the State in the month of October 2019 was prior to marriage of applicant and complainant.

7. I have heard learned counsel for the parties and also perused the case diary.

8. There is allegation of assault by present applicant at Durg, in parents' house of complainant. This incident of assault was narrated by complainant to her Sister and Aunt (Bua). Thereafter, she returned back to Bangalore in the month of January, 2020.

9. Taking into consideration entire facts of the case, material available in case diary, nature of allegation, keeping in mind period of marriage of applicant, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

10. Accordingly, the application is allowed and it is directed that in the event of arrest of 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/- (Rupees twenty-

five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) 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;
- c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) 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.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma