

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 652 of 2021**

Naseem Ansari S/o Shri Saleem Ansari Aged About 28 Years
R/o Ward No. 40, Aayan Marg, Mominpur, Ambikapur, P.S.
And Tehsil- Ambikapur, District- Sarguja, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer
Ambikapur, Ambikapur, District- Sarguja, Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Surfaraj Khan, Advocate
For Non-applicant/State : Mr. Shrikant Kaushik, P. L.

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

16.07.2021

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.351 of 2021 registered at Police Station Ambikapur, District Sarguja (C.G.), for offence punishable under Sections 498-A, 376, 506, 34 of the Indian Penal Code.
2. Case of the prosecution in brief, is that applicant married with the complainant on 16.06.2020 under Muslim customs, immediately after marriage, applicant and family members started asking for the dowry, upon which, demand was intimated to her father by the complainant. Father of complainant within 4 days of marriage came to her matrimonial home and gave Rs.1,00,000/- to father of present applicant, thereafter, before the day of Moharram, father

of complainant came to her house and took the complainant to his house as per custom. The complainant asked the present applicant to get her admitted in college, which was refused. The complainant thereafter did not return back to her matrimonial house. The applicant moved an application for restitution of conjugal rights before the Family Court on 04.12.2020. After issuance of notice, complainant appeared before the Family Court and thereafter, they have moved an application for compromise under Order 23 of Code of Civil Procedure. Complainant went to her matrimonial house on 05.02.2021, immediately thereafter, applicant and family members again started demanding dowry from her. On 15.02.2021 and 16.02.2021, father-in-law and brother-in-law of complainant committed rape upon her. This incident was narrated to the applicant, but he told that she may not disclose this fact to anyone otherwise she will be hanged with fan and be assaulted. Thereafter, complainant told the incident to her parents, upon which, her father came and took back the complainant. The report was lodged on 01.04.2021, based upon which, crime was registered against the present applicant, father-in-law and brother-in-law.

3. Mr. Surfaraj Khan, learned counsel for the applicant would submit that complainant has made false allegation against the applicant as well as his family members. He submits that from the contents of First Information Report, it is apparent that the allegation with regard to demand of dowry and ill-treatment is false. He further submits that complainant wants to prosecute higher education,

which was not permitted by in-laws, hence, she refused to return back to the house of present applicant, which made the applicant to file an application for restitution of conjugal rights. As the complainant do not want to stay along with her in-laws along with applicant, hence, after returning back on 05.02.2021 within few days, further allegation has been levelled against the present applicant and in laws. It is contended that there is no allegation of involvement of applicant in commission of offence of Section 376 of IPC, but for omnibus allegation of demand of dowry. Father and brother against whom allegation under Section 376 of IPC is also levelled were enlarged on regular bail in MCRC No.3126 of 2021. There is no specific allegation of demand of dowry made by complainant against the present applicant, hence, applicant may be enlarged on bail.

4. Per contra, Mr. Shrikant Kaushik, learned Panel Lawyer representing the State vehemently opposes the bail application and read over the contents of First Information Report as well as statement recorded under Section 164 of Cr.P.C. in support of his submission. He submits that there was constant demand of dowry from the in-laws of the complainant and there is allegation against the brother-in-law and father-in-law for commission of rape.
5. I have heard learned counsel for the parties.
6. Taking into consideration nature of allegations, entire facts and circumstances of the case, within few days of the marriage, complainant returned to her parents house, further after month of August, complainant refused to live in the company of the

applicant, which made the applicant to file application for restitution of conjugal rights, which is evident from copy of order-sheet where the complainant entered into the compromise, thereafter joined the company of present applicant only on 05.02.2021 and she again left the company of present applicant within few days, without commenting anything on merits of the case, I am inclined to release the present applicant on anticipatory bail.

7. 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