

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 663 of 2021**

Pankaj Pandey, S/o Shri Prasiddha Narayan Pandey, Aged About 29 Years, R/o-LIG-205, Hatkeshwar Colony Dhamtari, District Dhamtari Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Police Station - Mahila Thana Durg, District Durg Chhattisgarh.

---- Non-applicant

 For Applicant : Shri Shobhit Mishra, Advocate
 For Non-applicant/State : Shri B.P. Banjare, Dy. Govt. Advocate
 For objector : Shri Vipin Tiwari, Advocate

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

23.07.2021

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.31 of 2021, registered at Police Station Mahila Thana Durg (C.G.), for offence punishable under Section 498A/34 of Indian Penal Code and Section 4 of Dowry Prohibition Act.
2. Case of the prosecution in brief, is that, complainant and applicant got married on 26.04.2018. After marriage, complainant went to her matrimonial home on 27.04.2018. She lodged a written report on 17.12.2020 before Station House Officer, Mahila Thana Bhilai stating that prior to marriage at the time of engagement, father of complainant gave Rs.1,00,000/- cash to applicant and his family

members. On 17.04.2018 at the time of *Tilak* ceremony, on demand of father of applicant, Rs.3,00,000/- was given in his house at Dhamtari. At the time of marriage also, Rs.2,00,000/- cash and other household articles were given. Immediately after the marriage, father of applicant again made demand of Rs.2,00,000/- for purchase of car and pressurized the complainant to bring it from her parental house. She was being harassed by her mother-in-law by stating that other girl who were employed were ready to marry the applicant along with car and further, levelled other allegations with regard to harassment and ill-treatment. The allegation levelled against the applicant is that he was having extra-marital relation with some other girl. In the first night itself, applicant intimated her that his father in greed of money, fixed marriage with her and he will take some time to adjust with complainant. On 30.04.2020, applicant took the complainant to her parent's house on the ground that after few days, he will bring her back, but applicant did not come back and took her. On the basis of aforementioned written report, instant crime was registered on 12.03.2021 against the present applicant i.e. husband, father-in-law and mother-in-law of the complainant.

3. Shri Shobhit Mishra, learned counsel for the applicant would submit that it is the complainant herself who do not want to reside with applicant. She started dispute in the family immediately after coming to her matrimonial house. She stated before in-laws that she is regretting of her marriage with applicant. When the complainant left her matrimonial house and came to Durg at her

parents house, in-laws of complainant after deliberation brought her back to her matrimonial house. The applicant caught complainant sending dirty photographs to her male friends and upon his objection, she went back to her parents house. Referring to Annexure A/2 mobile chat between the applicant and the complainant, he would argue that perusal of chat would show that it is the complainant who is interested in divorce for the reasons appearing in chat. He also referred to family conciliation center (Annexure A/3) and read over the proceedings dated 27.12.2020, 10.01.2021 and 17.01.2021 and submits that there is no allegation against the applicant as alleged in First Information Report, but she does not want to reside with applicant and interested in separation. He further submits that complaint against the applicant and his family members are under pressure of parents of complainant. The applicant is a bank employee and if protection under Section 438 of Cr.P.C. is not granted to him in the facts of the case, he will suffer adversely in his service career.

4. Per contra, Shri B.P. Banjare, Deputy Govt. Advocate representing the State vehemently opposes the submissions made by learned counsel for the applicant, referred to the contents of First Information Report and submitted that there is specific allegation with regard to ill-treatment, harassment and physical and mental cruelty against the applicant, hence, applicant is not entitled for the benefit under Section 438 of Cr.P.C. He further referred to statement of witnesses recorded under Section 161 of Cr.P.C. in support of his contention.

5. Shri Vipin Tiwari, learned counsel for the complainant/objector would submit that in the written complaint, specific allegation with regard to demand of money for purchase of car is levelled. He submits that complainant was ill-treated and harassed in her matrimonial house. He referred to portion of chat at page No. 35 and argued that chat is one-sided. He further referred to conciliation proceedings before the Family Conciliation Center dated 24.01.2021 at page 41 and submitted that it is the present applicant who did not want to reside with complainant and submission of learned counsel for the applicant is not correct that the complainant does not want to reside with the applicant. It is contended that in the conciliation proceeding, applicant stated that he is ready to return "*Stridhan*" and submits that applicant is not entitled for grant of anticipatory bail.
6. I have heard learned counsel for the respective parties and perused the case diary.
7. On the last date of hearing, when learned counsel for the applicant referred to mobile chat in support of his case, this Court has asked the learned counsel for objector to verify whether the number mentioned in mobile chat is of complaint's mobile number or not. Today, when he was asked with regard to query made by this Court on last date of hearing, he submits that though the mobile number from which the chats is shown, is of complainant but she had not sent herself.
8. Taking into consideration entire facts and circumstances of the case, nature of allegations, proceedings before Family

Conciliation Center wherein complainant herself has recorded her statement making allegations and intention shown by complainant before Family Conciliation Proceedings and their conversation placed on record, further the applicant is a bank employee under State Bank of India, without commenting anything on 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