

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 740 of 2021

- Rahul Saraf S/o. Kamal Saraf, aged about 37 years, R/o. Mishra Pustkalay Gali, Near Kali Mandir, Sarju Bagicha, Bilaspur, District Bilaspur (CG)

---- Applicant

Versus

- State of Chhattisgarh, through Station Officer, Mahila Thana, Bilaspur, District Bilaspur (CG)

---- Non-applicant

For Applicant	:	Mr. Arvind Shrivastava, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Advocate
For Complainant/Objector	:	Mr. Hari Agrawal, Advocate.

The Complainant is also present through 'help desk' of the State Legal Services Authority, Bilaspur

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

23/07/2021

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.16/2021 registered at Mahila Thana, Bilaspur for commission of offence punishable under Sections 498A, 323, 294 r/w 34 of the Indian Penal Code.
2. The prosecution story, in brief, is that marriage of the complainant and present applicant was solemnized on 26.6.2010 and out of their wedlock, they have been blessed with two child, a boy and a girl. On 6.3.2021 a written complaint was lodged by complainant mentioning therein that present applicant is having extra-marital affairs with another lady since last two years and due to which, he is residing separately in the house of his grandmother situated at Masanganj, Bilaspur. Whole of the family of present applicant is trying to declare her insane. All the family members are trying to oust the complainant from her matrimonial home; mother-in-law of complainant has taken all her jewellery and she is going to Raigarh Allegations of harassment, ill-treatment and cruelty are

alleged against present applicant, his father, mother, brother and sisters. It is also alleged in the complaint that on 6.3.2021 present applicant and his family members have assaulted complainant. On the basis of written complaint, instant crime is registered against present applicant and six others.

3. Mr. Arvind Shrivastava, learned counsel for applicant would argue that due to suspicion only, the complainant started quarrelling with present applicant. She used to assault and give threat to present applicant that she will commit suicide. Looking to aforementioned conduct of complainant, present applicant started residing separately with her grandmother. In support of his contention, learned counsel has read over the proceedings recorded by the Family Reconciliation Centre, Bilaspur. He submits that contents of proceedings recorded by the Family Reconciliation Centre would show that parents of present applicant and he himself had stated that the complainant abuses, quarrels and assaults her in-laws. Brother of complainant took her to Mumbai for her treatment. In view of threat given by complainant, applicant was forced to reside separately. Complaint is made even against married sisters of present applicant who are residing separately in their respective matrimonial home. On the date of lodging of complaint, present applicant looking to aggressive behaviour of the complainant, had submitted an application in the Police Station Tarbahar, Bilaspur. No offence, as alleged against present applicant, has been committed by him. He further submits that an application under the Domestic Violence Act against the complainant has been filed by the parents of present applicant before the competent Court. Hence, present applicant may be granted anticipatory bail.
4. Per contra, Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that a written complaint has been lodged by complainant regarding ill-treatment and harassment meted out to her by present applicant and his

family members. Present applicant is husband and there are allegations that on the date of lodging of complaint also, he along all his family members had harassed and assaulted the complainant. Hence, present applicant is not entitled to be released on anticipatory bail.

5. Mr. Hari Agrawal, learned counsel representing the complainant / objector would submit that present applicant and his family members are spreading false rumour in the society that complainant is insane/mentally ill and this fact itself amounts to mental harassment and cruelty to the complainant. He further submits that complaint has been lodged immediately after the incident and each & every fact might not have been mentioned therein, but considering the entirety of facts of case based on the statements recorded under Section 161 CrPC, there are specific allegation against present applicant that he has treated the complainant with cruelty. Even on the date of lodgement of complaint, present applicant has assaulted and quarrelled with the complainant and her brother near the police station gate for which also separate FIR is registered. He also submits that parents of present applicant have filed civil suit in collusion with present applicant and his two brothers in which subsequently a compromise application has been filed by plaintiff-parents and defendant-sons mentioning that all the properties mentioned in civil suit are owned either by father or mother of defendant-sons. In the said civil suit, the complainant has also filed an objection. All the exercise in the civil suit is done only to deprive the complainant from her rights being wife of present applicant. He submits that looking to continuous harassment and also assault on the date of lodging of complaint, present applicant is not entitled for grant of anticipatory bail under Section 438 of CrPC.
6. I have heard learned counsel for the parties and perused the case diary.
7. In case diary the proceedings drawn before the Family

Reconciliation Centre are available. The complainant and present applicant along with his family members have made allegations and counter allegations against each other.

8. Going through the proceedings of the Family Reconciliation Centre, contents of complaint, the fact that applicant has been shown to be residing separately for the last two years, contents of FIR lodged by brother of complainant on 6.3.2021 wherein there is no allegation against present applicant and considering the entirety of facts and circumstances of case, without commenting anything on merits of the case, I am of the view that present is a fit case where applicant is entitled to be released on anticipatory bail.
9. 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 furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. The applicant shall also abide by the following conditions :
 - (i) that he shall make themselves available for interrogation before the Investigating Officer as and when required;
 - (ii) that 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 / her from disclosing such facts to the Court or to any police officer;
 - (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-