

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 794 of 2021**

1. Shekh Asalam Khan, S/o Late Abdul Rajjak, Aged About 32 Years
2. Akabar Khan S/o Late Abdul Rajjak Aged About 25 Years
Both residents of Ward No.8, behind OP Khongapani, PS Jhagrakhad, Distt Koriya, Chhattisgarh
3. Smt. Najma Begam, D/o Late Abdul Rajjak, Aged About 44 Years
4. Asalam Khan S/o Late Salim Khan Aged About 48 Years
Both residents of Near Railway Station, Anuppur, P. S. Anuppur, District Anuppur Madhyapradesh

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Station, In Charge Lakhanpur, P. S. Lakhanpur, District Surguja Chhattisgarh

---- Respondent**MCRCA No. 848 of 2021**

- Amjad Khan, S/o Late Abdul Rajjak, Aged About 35 Years, R/o Ward No. 08, Behind Of Out Post Khongapani, Police Station Jhagrakhad , District Koriya Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station In Charge Lakhanpur , Police Station Lakhanpur, District Surguja Chhattisgarh

---- Respondent

For Applicants	: Shri Bhupendra Singh, Advocate
For Respondent/State	: Shri Roshan Dubey, Panel Lawyer
For Objector	: Shri Sunil Tripathi, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****(Proceeding through Video Conferencing)****28.07.2021**

1. As both the bail applications are arising out of same crime number, hence they are being disposed of by this common order.
2. These Bail applications have been filed under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No.49 of 2021 registered at Police Station Lakhanpur,

District-Surguja, Chhattisgarh for commission of offenses punishable under Sections 498A and 34 of IPC.

3. Case of the prosecution, in brief, is that, complainant-Wife got married with applicant-Amjad Khan on 30.04.2019. After marriage, complainant went to her matrimonial house. After sometime of their marriage, applicants have started harassing and ill-treating the complainant on demand of dowry. They were demanding dowry of Rs.25 lakhs and household gift articles according to their choice. It is further alleged that after marriage, on 10.05.2019, applicant-Amjad Khan has sent the complainant in a Car along with Driver to her parents house. Report was lodged on 06.01.2021 by the complainant, making allegations of harassment, ill-treatment and demand of dowry. It was further alleged that applicants have not disclosed about the earlier marriage of Amjad Khan and pendency of dispute between them. On the basis of complaint, instant crime is registered against present applicants.

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

5. Shri Bhupendra Singh, learned counsel for the applicants would submit that as parents of applicant-Amjad Khan are no more, all other applicants- Shekh Asalam, Akabar Khan, Smt Najma Begam and Asalam Khan, all are residing with applicant-Amjad Khan, and complainant herself was not ready to reside in joint family of her husband. He further submits that complainant was pressurizing and forcing her husband to reside separately to which he refused, on account of which complainant

threatened him that she would take course of law. Learned counsel submits that looking to the threat given by complainant, her husband Amjad Khan intimated to Superintendent of Police, Khongapani on 19.11.2020, photocopy of same is annexed at Page-13 of bail application. He further submits that prior to it, one other complaint was lodged on 11.11.2020, mentioning the fact that complainant threatened that she will commit suicide and implicate all applicants in Criminal case. She left the house on 25.09.2019, and omnibus allegations of demand of dowry and harassment have been levelled in FIR. Prior to lodging complaint, an application was filed by father of complainant on 06.01.2021 before Anjuman Committee, Khongapani (Annexure3), wherein, there is no mention with regard to demand of Rs.25 lakhs or any gift articles, as alleged, but complaint was that applicants were ill-treating and harassing her. Contents of complaint by complainant, application lodged by father of complainant before the Committee and also contents of FIR would show that allegations levelled in all these applications are absolutely baseless and false. In view of this, applicants may be enlarged on bail under Section 438 of CrPC.

6. On the other hand, Shri Roshan Dubey, learned counsel for the State opposing the submissions of learned counsel for the applicants, submits that in FIR and statement of complainant, there is specific allegations of harassment, ill-treatment and demand of dowry. He submits that statements of other family members were also recorded under Section 161 CrPC. It is also pointed out that there is further allegation that applicant-Amjad Khan forced complainant to resign from

her job of post of teacher in DAV School and on his pressure, she has resigned. He also pointed out regarding further allegations in FIR that applicants suppressed the fact that applicant-Amjad Khan was married earlier to marriage with complainant. Hence, applicants are not entitled for benefit under Section 438 CrPC.

7. Shri Sunil Tripathi, learned counsel for objector/complainant submits that, from initial days of marriage, applicant started harassing and ill-treating the complainant, for demand of dowry of Rs.25 lakhs and other household articles as per their choice. He also pointed out that fact of earlier marriage of applicant-Amjad Khan was suppressed by all the applicants, hence, they cheated complainant and her parents. On similar grounds, earlier 1st wife of Amjad Khan has lodged FIR against him vide Crime No.46 of 2016 registered for offenses under Section 498A and 34 IPC, which shows that applicants are habitual offenders. He further read out the proceedings of conciliation before “Sakhi One Stop Centre”, Sarguja and submitted that applicant-Amjad Khan, from 1st date of counselling was not interested in keeping good relationship with complainant. He further pointed out that complainant and 1st wife have made allegations that applicant-Amjad Khan was impotent and is not able to make any physical relationship, which also amounts to cruelty upon complainant. Hence, applicants are not entitled for grant of bail.

8. Shri Bhupendra Singh, learned counsel for the applicants, in reply of submissions made by learned counsel for the State as well as the Objector submits that Sister of complainant is residing in Manindragarh, which is about 6 km away from the residence of applicant-Amjad Khan.

As she belongs to same community, she was well aware of marital status of applicant Amjad Khan, only on her mediation, marriage of Amjad Khan and complainant was fixed. He further pointed out that after residing separately from Amjad Khan since September, 2020, complainant has moved an application on 16.02.2021 before the Manager, Personnel Department office of applicant Amjad Khan, where he was working as Quality Inspector to record her name in the Service Book as wife of applicant-Amjad Khan. This shows conduct of complainant. He further submits that Amjad Khan divorced his earlier wife and Certificate was also issued. He also submits that in Criminal proceedings initiated under Section 498A in the year 2015, persons implicated therein were acquitted from charges.

9. I have heard learned counsel for the parties.

10. Taking into consideration nature of allegations leveled against the applicants, facts and circumstances of the case, further considering the application filed by father of complainant before the Anjuman Committee for settlement, wherein there is no allegation of demand of dowry as alleged in FIR, even otherwise, this allegation is omnibus allegation, Applicant- Amjad Khan is a Government servant, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicants.

11. Accordingly, the applications are allowed and it is directed that in the event of arrest of applicants in connection with the crime in question, they shall be released on anticipatory bail by the Officer arresting them

on executing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) each 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 applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- b) That the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That the applicants 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