

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 830 of 2021**

- Mohsin Khan, S/o Shri Paras Ram Khunte @ Rahim Khan, Aged About 32 Years, R/o Flat No. D-302, Kanchan Vihar, Aashirwad Girls Hostel Ke Samne, Tatibandh Raipur, Tahsil And District - Raipur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh, Through Officer In - Charge, Police Station - Aamanaka, District - Raipur Chhattisgarh

---- Respondent

For Applicant	: Ms Shreya Mishra, Advocate on behalf of Shri Rahul Mishra, Advocate
For Respondent/State	: Shri Shrikant Kaushik, PL

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

12.08.2021

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. 104 of 2021 registered at Police Station Aamanaka, District-Raipur, Chhattisgarh for commission of offenses punishable under Section 498-A and 34 of IPC and Section 4 of Muslim Women Protection of Rights on Marriage Act, 2019.
2. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.
3. Case of the prosecution, in brief, is that, complainant got married with applicant on 24.11.2018. From the initial days of her marriage, she was being ill-treated, harassed on the ground that she brought inferior quality of gift articles and also on the ground that she is not mentally fit. Present applicant has pronounced 'Talaq' on 11.11.2020, immediately after birth of girl child from their wedlock. Again pronounced 'Talaq' from Mobile phone on 21.03.2021,

when complainant was residing in her parental house. It was further alleged that in-laws at the time of her stay in their house, have harassed and ill-treated her; mother-in-law stated that there should be birth of boy child and if not, she will be given divorce and sent to her parents' house. Due to continuous harassment and ill-treatment and comments of family members that she is not mentally fit, complainant has gone into depression. Complainant was deserted on 26.12.2020 and thereafter, written complaint was filed on 10.05.2021 before concerned Police Station, based upon which FIR was registered on 19.05.2021 against present applicant, two Moulanas of Masjid and her in-laws.

4. Ms Shreya Mishra, learned counsel for the applicant would submit that after marriage, complainant resided in company of applicant and her in-laws at Raipur, during her stay in matrimonial house, she become violent, for which treatment was provided, she was taken to the doctor for treatment to Psychiatrist, which is evident from medical prescriptions placed on record of Dr. Prakash Narayan Shukla. She further submits that allegation of ill-treatment and harassment with regard to bringing inferior gift articles is not correct, it is false, only to make the allegation more serious. She also submits that applicant has not pronounced 'Talaq' at any point of time. She referred to the affidavit dated 29.07.2021 placed on record along with application for taking additional documents on record at Page-65 of bail application as Annexure A6, stating it to be issued by Haji Mohammed, maternal uncle of complainant. Referring to affidavit she submits that deponent has very categorically stated that there was meeting on the application filed by present applicant and

Community and Maulanas in Masjid at Raipur, on 03.04.2021 where deponent was also present. There was no quarrel between the parties, but looking to statement made on behalf of both sides, complainant was advised to bring certificate after her examination from doctor and thereafter, complainant lodged complaint levelling allegations against applicant. She also submits that allegation that complainant was threatened that she will be divorced if she give birth to girl child, is also not correct. After birth of child, family members of complainant have organized birth ceremony in their house, in which applicant along with his parents was present and celebrated the function, for which photographs of birth ceremony are also enclosed which shows that both the parties were having cordial relationship and till that time, there was no dispute between them. She further submits that husband himself has forwarded an application through Whatsapp message to his superior for grant of Paternity Leave, mentioning therein that his wife was expecting child and due date is very near, which also shows that relationship between the parties and nature of applicant to be caring towards his wife ie complainant. Applicant has not pronounced 'Talaq' to complainant at any point of time. He is still ready to continue their marital relationship. Other co-accused persons, who are in-laws of complainant have already been enlarged on anticipatory bail, hence, present applicant may be granted anticipatory bail under Section 438 of CrPC.

5. On the other hand, Shri Shrikant Kaushik, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that allegations levelled against present applicant and her in-

laws are very serious in nature. He read over contents of FIR in support of his contention. However, he submits that applicant and complainant executed an agreement (*Ikrarnama*) on 22.05.2021 at Chirimiri, wherein applicant has admitted allegations of ill-treatment and harassment and also pronouncement of 'Talaq', hence applicant is not entitled for benefit of grant of anticipatory bail.

6. Shri Atchyut Tiwari, learned counsel for objector, while adopting submissions made by learned State counsel, further submits that applicant himself has pronounced 'Talaq' twice. Complainant was harassed and ill-treated on account of bringing inferior quality gift articles, further that her mental condition was not good. He submits that in agreement executed on 22.05.2021, applicant himself has admitted ill-treatment, harassment and pronouncement of 'Talaq'. Hence, applicant is not entitled benefit under Section 438 of CrPC. He also referred to contents of FIR and written complaint in support of his submission.

7. I have heard learned counsel for the parties.

8. Taking into consideration nature of allegations levelled against present applicant; contents of FIR and written complaint; documents placed on record along with affidavit, particularly photographs, stated to be taken at the time of celebration of birth ceremony in parental house of complainant, age of girl child, period of marriage, and the agreement (*Ikraarnama*) dated 22.05.2021 executed between the parties at parental place of complainant after registration of FIR, wherein both the parties have agreed to continue with their marital relationship, without

commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

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 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 him/her 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/her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE