

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 875 of 2021**

Sanjay Mirania S/o Shri Bhim Kumar Mirania (wrongly written as Bhimsen Mirania in First Information Report), Aged About 42 Years R/o Near Gouri Shankar Mandir Raigarh, Police Station City Kotwali, Tahsil and District Raigarh Chhattisgarh

---- Applicant.**Versus**

State of Chhattisgarh Through Station In-Charge, Mahila Thana District Bilaspur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Rishi Rahul Soni, Advocate

For Non-applicant/State : Shri Sudhir Sahu, Panel Lawyer

(Proceedings through Video Conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****16.08.2021**

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.27 of 2021, registered at Police Station Mahila Thana, Bilaspur Tahsil and District Bilaspur (C.G.) for offence punishable under Sections 498-A, 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, complainant got married with present applicant on 13.02.2016. On 05.09.2017, a written complaint was lodged making allegations that when after her marriage, she went to her matrimonial house, she came to know that applicant was earlier married to someone else and also taken divorce from his earlier wife. Upon asking with regard to his earlier marriage, applicant and her in-laws started quarreling with her and

abused her in filthy language. Mother-in-law of complainant has kept all the gold ornaments with her, which she received as gift from her parents. She was not provided proper food and not permitted to wear clothes of her choice, which she brought from her parents house. It was further allegation that mother-in-law of complainant has stated that fact of earlier marriage of applicant, and divorce was already informed earlier. When complainant conceived and went to her parents house, applicant and her in-laws came to her parents house and stated that she will be permitted to return to her matrimonial house at Raigarh only when she will give birth to a male child. She was admitted at Maria Hospital where complainant gave birth to a female child, no one from her matrimonial house came to hospital to see the complainant and newly born baby. The applicant alone came there only for few hours and returned back. When complainant went to her matrimonial house along with child, she was harassed and ill-treated. Looking to the dispute between the complainant and her in-laws, applicant has taken a rented accommodation and kept the complainant there. Applicant has ill-treated and assaulted the complainant in separate rented accommodation also, thereafter, complainant returned back to her parents house on 19.08.2017. Based on the written report, Conciliation Proceeding was initiated at Mahila Thana, Bilaspur. Looking to the statement of parties before the Family Conciliation Centre, proceedings of conciliation was closed on 10.10.2017. Instant First Information Report was registered based on the complaint lodged on 28.05.2021.

3. Shri Rishi Rahul Soni, learned counsel for the applicant would submit that complainant resided in the company of the applicant only for few months. He further submits that when complainant conceived after her marriage, she went back to her parents house, firstly on the pretext that she has to undergo further education of B.Ed. and for delivery of child. She returned back to her matrimonial house after giving birth to female child only in the month of August and within few days of her stay in the month of August in her matrimonial house and in separate rented accommodation with the applicant, complainant again returned back on 19.08.2017 and since then, complainant is residing separately in her parents house. Complainant has initially filed an application before the Court of competent jurisdiction under the Domestic Violence Act and also filed an application under Section 125 of Cr.P.C. for grant of maintenance for herself and small child. In the proceedings under Section 125 of Cr.P.C., interim maintenance was fixed by learned Family Court and amount of Rs.4,000/- per month for complainant and Rs.2,000/- per month for child has been fixed, for which, applicant is making payment. It is contended that in Family Conciliation Proceeding, applicant has shown his will to keep the complainant along with the child, but it is the complainant, who for one or the other reason, has not shown any interest to reside with the applicant. It is further contended that from perusal of written report dated 05.09.2017 itself would show that complainant has resided in her matrimonial house only for few months and all the allegations levelled are

against mother of applicant. He further pointed out that in the Family Conciliation proceedings, complainant herself has stated that applicant is having intimacy with his *Bhabhi*, which is one of the grievance of complainant, applicant is working as Assistant Professor in Kirodimal College at Raigarh, hence, present applicant may be enlarged on anticipatory bail.

4. Per contra, Shri Sudhir Sahu, learned Panel Lawyer representing the State opposing the submissions made by learned counsel for the applicant, would submit that applicant and his family members started ill-treating and harassing the complainant on one or the other pretext from initial date of her marriage. A written complaint was lodged on 05.09.2017, based upon which, Conciliation Proceeding was also initiated. He further submits that allegation mentioned in the written complaint of the year 2017 would show that complainant has made serious allegation against the applicant and her in-laws, hence, applicant is not entitled for grant of anticipatory bail. However, upon putting a specific query, he submits that instant report is registered based on oral complaint lodged by complainant before concerned Police Station on 28.05.2021.
5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations mentioned in written complaint dated 05.09.2017, proceeding of Family Conciliation Centre which was of the year 2017, complainant has filed an application before the competent Court under the Domestic Violence Act and also filed

application for grant of maintenance under Section 125 of Cr.P.C. much prior to filing of complaint on 28.05.2021, applicant is working as Assistant Professor in Kirodimal College at Raigarh, without commenting anything into the 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