

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 887 of 2021**

1. K. Kamal Rao (As Per FIR) Kamal Kayarwar (Actual Name) S/o Shri K. Ashok Rao Aged About 35 Years
2. K. Ashok Rao (As Per FIR) K. Ashok (Actual Name) S/o Late Shri K. Laxman, Aged About 70 Years
3. K. Nirmala Rao (As Per FIR) Nirmala Kayarwar (Actual Name) W/o K. Ashok Rao Aged About 65 Years
4. K. Sanjay Rao (As Per FIR) K. Sanjay (Actual Name) S/o Shri K. Ashok Rao Aged About 38 Years

All are R/o K. Ashok Tailor, Opposite - State Bank Of India, Main Road, Sarkanda, P.S. Sarkanda, District Bilaspur Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Incharge Of Police Station Mahila Thana, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Applicants	: Shri Pallav Mishra, Advocate
For Respondent/State	: Shri Roshan Dubey, Panel Lawyer

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

16.08.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No. 43 of 2021 registered at Police Station Mahila Thana, District-Bilaspur, Chhattisgarh for commission of offenses punishable under Sections 498-A and 34 of IPC.
2. Case of the prosecution, in brief, is that, on 27.11.2017, complainant got married with Applicant-1 (A1). Applicants- 2 and 3 are parents of A1 and Applicant- 4 is brother of A1. Prior to marriage, A1 was in service at Bangalore and complainant was in service at Hyderabad. After marriage, complainant resigned from her service, went to Bangalore and started living with A1. They returned back to Bilaspur in the month of November, 2020 during Carona

Pandemic. After returning from Bangalore, complainant went to her parents' house. Written report was lodged on 16.07.2021 by the complainant making allegations against present applicants of ill-treatment, harassment and demand of dowry of Rs.10 lakhs. There was further allegation that A1 pressurized complainant to take personal loan and hand over that amount to him for the purpose of repayment of his loan, which he availed during his marriage with complainant. There is further allegation that on account of ill-treatment and harassment, complainant suffered mis-carriage. After returning from Bangalore, in the month of November, complainant wanted to stay in her matrimonial house, but she was not permitted to enter her matrimonial house and was ousted. Based on written report, FIR was registered against the applicants and instant crime has been registered against present applicants.

3. Applicants, apprehending their arrest, filed this anticipatory bail application after rejection of their application by the Court below.

4. Shri Pallav Mishra, learned counsel for the applicants submits that allegation of demand of dowry is absolutely false and baseless. He submits that depositing money by complainant in the account of A1 is on her own on the request of A1, but not under any pressure. He further pointed out that prior to marriage, A1 and complainant were doing jobs in different cities but to discharge the obligation of her matrimonial life, she resigned herself and shifted to Bangalore and started living with A1. During her stay at Bangalore, complainant has not made any allegation against present applicants, but it is subsequently, when they returned to Bilaspur during Carona Pandemic. Immediately after return from

Bangalore, complainant went to her parents house and started living there. She neither joined company of A1 nor she returned to her matrimonial home, even after best efforts made by A1. He submits that looking to conduct and attitude of complainant of deserting him, A1 has filed an application under Section 9 of Hindu Marriage Act, 1955 for restitution of Conjugal rights in the month of January, 2021, much prior to filing of written report against present applicant. Report was lodged only after getting knowledge of filing application for restitution of conjugal rights by A1. He further submits that after receipt of written complaint, it was referred to Family Conciliation Centre, and during conciliation proceedings, when the authorities came to know about factual aspects and filing of application under Section 9 of Hindu Marriage Act by A1, proceedings before conciliation centre were closed. He submits that A1 is always ready to continue his marital relationship with complainant, but it is the complainant herself, does not want to reside with A1 for one or the other reason. Allegations against Applicants-2, 3 and 4 are baseless, false and omnibus. Therefore, applicants may be enlarged on bail under Section 438 of CrPC.

5. On the other hand, Shri Roshan Dubey, learned counsel for the State opposing the submissions of learned counsel for the applicants, submits that complainant was ill-treated and harassed by A1, there was demand of dowry of Rs.10 lakhs by applicants and hence they are not entitled for bail. He also submits that A1 has asked complainant to take personal loan, for which she applied and took it from her employer and deposited in bank account of A1, which itself shows that allegation of demand of dowry is *prima facie* not false.

6. Shri Atchut Tiwari, learned counsel for complainant/Objector submits that complainant was pressurized to resign from her service in Hyderabad. He submits that on the demand made by applicants, complainant's father deposited Rs.1,40,017/- in the account of A1 directly. Thereafter, complainant has taken loan from her employer and deposited the amount in bank a/c of A1. He further pointed out that he has filed statement of Bank account of complainant, from which it is evident that she has deposited amount in bank a/c of A1 to the tune of Rs.13,000/-, Rs.14,000/- and Rs.15,000/-, as appearing from statement. Complainant was ousted from her matrimonial house and thereafter, she started living with her parents. Hence, applicants are not entitled anticipatory bail.

7. I have heard learned counsel for the parties.

8. Taking into consideration nature of allegations levelled against present applicants as mentioned in written complaint; the fact that after marriage in the month of November, 2017 she resigned herself and stayed in the company of A1 at Bangalore till they returned to Bilaspur during Carona Pandemic; filing of application by A1 under Section 9 of Hindu Marriage Act 1955 in the month of January, 2020 for restitution of Conjugal rights mentioning therein that after return from Bangalore, complainant started residing in her parents house; FIR was lodged only on 16.07.2021 against present applicants; complainant after her marriage, resided either at Bangalore with A1 or at Hyderabad, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicants.

9. Accordingly, the application is 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 their executing a 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 applicants 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 them 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 them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma