NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 991 of 2021

Vikash Sahu S/o Vimal Kumar Sahu, Aged About 33 Years R/o Flat No. 401, Deep Valley Apartment, Main Road, Pragati Nagar, Risai, Bhilai, District Durg (C.G.), Presently - 809, S-70, Plz, Apt. 28, Omaha (Nebraska) 68106 (USA)

---- Applicant

Versus

State of Chhattisgarh, Through The Police Station Mahila Thana Durg, Sector-6, Bhilai, District Durg Chhattisgarh.

---- Non-applicant

For Applicant	: Mr. T.K. Jha, Advocate
For Non-applicant/State	: Mr. Vimlesh Bajpai, Govt. Advocate
For Complainant	: Ms. Jaya Shrivastava, Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

26.08.2021

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.59 of 2021, registered at Police Station Mahila Thana, Durg, Sector-6, Bhilai, District Durg (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 the applicant on 23.11.2015. After marriage, applicant and complainant resided in matrimonial house at Bhilai till 30.06.2016. Applicant went to America for prosecuting higher studies. After marriage, applicant and his parents harassed, ill-treated the complainant for demand of dowry. Parents of applicants/father-in-law and motor-in-law of the complainant have stated her that education loan of Rs.20,00,000/- has been taken for studies of the

applicant and she may bring money from her parents to clear loan. When complainant returned back form Raipur after completion of her PSC coaching, she was not permitted to come in house by father-in-law and mother-in-law, therefore, she was to reside with her sister. Applicant during his stay of America has asked complainant to bring Rs.20,00,000/- from her parents. When applicant did not return from America for long time, complainant herself got prepared passport visa with the help of her parents and went to America where the applicant was residing. She resided there for about three months and returned back to India. During her stay at America with the applicant, applicant harassed, ill-teated and also assaulted her. She was not permitted to come out of the house whenever applicant goes for his wok, she was locked in the house, behavior of applicant was inhuman and she was asked to consume liquor made unnatural sex with her. She was beaten before making relationship. A written report was filed making aforementioned allegations, based upon which, First Information Report was registered against the applicant and his parents.

3. Mr. T.K. Jha, learned counsel for the applicant would submit that applicant was a brilliant student. After completion of his education in India, he went to America for higher studies. Due to some legal obstructions and financial crisis, applicant had not taken complainant along with him to America. Applicant on account of his obligations towards his work could not able to come to India within specified time, but he was taking care of complainant by

sending her money timely, which is appearing from the documents filed by him at page Nos.56 to 59 along with bail application. He further submits that day by day behavior of complainant become aggressive and violent, she was not taking care of his parents, but was abusing them. She was also abusing the applicant on mobile chat by using filthy language as appearing from WhatsApp chat between complainant and applicant. Applicant belongs to decent family, not used such abusing language during interaction with the complaint on phone or WhatsApp chat. Initially, complaint was lodged on 02.06.2020 before Superintendent of Police, Balod, upon which, Police of Balod conducted preliminary investigation and concluded that allegations levelled against the persons mentioned in the complaint to be *prima facie* not correct including the applicant. The record of complaint dated 02.06.2020 was forwarded to Mahila Police Station, Durg. Another complaint was filed on 26.07.2021 before Police Station, Durg and Police without conducting any inquiry on the complaint, directly registered First Information Report. Complainant herself went to America alone to the applicant. She resided there with him for a period of three months in the year 2019 and thereafter, she returned back. At that time, complainant has not lodged any report before any police station, if at all any incident as alleged against her was taken place at America. The applicant is a reputed person in society and if he is arrested, it will affect his career. It is contended that looking to the conduct and behavior of applicant as appearing from mobile chat placed on record at page Nos.62 to 67, applicant has filed an application under Section 13 of Hindu Marriage Act for divorce on

18.01.2021. It is further contended that applicant could not appear in person in any of the proceedings on account of restriction on travelling due to COVID-19 pandemic across the globe. He lastly argued that parents of applicant were enlarged on anticipatory bail by the learned Court below, hence, applicant may be enlarged on anticipatory bail.

4. Per contra, Mr. Vimlesh Bajpai, learned Government Advocate representing the State opposing the submissions made by learned counsel for the applicant, would submit that serious allegations have been levelled against the applicants along with other co-accused persons. In support of his contention, he read over the relevant contents of written complaint as well as statement recorded under Section 161 of Cr.P.C. of complainant. He would further submit that apart from household gift, parents of complainant also gave her jewelery and further deposited Rs.1,00,000/- on 20.10.2015, Rs.1,00,000/- on 03.11.2015, Rs.1,00,000/- on 04.11.2015, Rs.1,10,000/- on 02.12.2015 in the bank account of father of applicant.

5. Ms. Jaya Shrivastava, learned counsel for the complainant would submit that complainant was cheated by the applicant, he was well aware that he has to go to America, but neither complainant nor her parents were intimated before marriage that applicant has to go to America. Only after eight months of marriage, applicant went abroad. The complainant on number of occasions requested him to keep her along with him, but applicant showing one or other reason, has not taken the complainant with him. She further

submits that parents of applicant have ill-treated and pressurized the complainant to bring Rs.20,00,000/- for repayment of education loan. The jewelery of complainant is also kept by them. The applicant on phone call asked to bring Rs.20,00,000/- fro her parents. She referred some of the transcripts of voice call between family member of complainant and some mobile chat between applicant and complainant and submits that applicant is not interested in keeping the complainant in his company. She further argued that after lodging of complaint, complainant was being pressurized by relatives of applicant for withdrawal of complaint and also stated her that she may take divorce from the applicant and whatever amount she wants, that will be paid. It is contended that applicant not participated in any of the counseling proceeding. Parents of complainant have transferred the cash amount in the account of father of applicant, which shows that applicant and his parents were demanding dowry from the date of fixing of marriage, hence, applicant may not be enlarged on anticipatory bail.

6. At this stage, Mr. T.K. Jha, learned counsel for the applicant would submit that at the time of marriage both the families agreed that marriage expenses incurred to be apportioned between them as cost of marriage was too high in Bhilai City. The reception of marriage was jointly organized and both of them have shared the expenses, for which, cash amount has been transferred and not as dowry. The allegation is absolutely false and baseless. He further submits that applicant is working in USA. Complainant has

forwarded the complaint to the Ministry of External Affairs and Embassy of India at America that applicant is absconding, upon which, applicant has been told that he will be sent back to India. It is argued that applicant will not delay the proceeding, hence, he may be enlarged on anticipatory bail.

7. I have heard learned counsel for the parties and perused the case diary as well as the documents placed on record by both the parties.

8. Taking into consideration entire facts and circumstances of the case, nature of allegations, documents placed on record, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.

9. 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

Yogesh