

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 1126 of 2021

Manish Kumar Soni S/o Vinod Kumar Soni, Aged About 37 Years, R/o Holding No. 23, P.N.B. Colony, Niyam Allied Tower, Sonari, Jamshedpur. Jharkhand.

---- Applicant

Versus

State of Chhattisgarh Through The Police Station Jashpur, District Jashpur, Chhattisgarh.

--- Respondent

For Applicant	: Mr. P. K. Das, Advocate.
For State	: Mr. Roshan Dubey, PL.
For Objector/Complainant	: Mr. M.K. Sinha, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

20/09/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.94/2021 registered at Police Station – Jashpur, District -Jashpur, (CG), for the offence punishable under Sections 494, 498 (A) of the Indian Penal Code.
2. Case of the prosecution, in brief, is that complainant lodged written complaint on 26.04.2021 mentioning therein that applicant was earlier married with Latta Samani and from her earlier marriage, he was also having a child. Further allegation is also made with regard to ill-treatment, harassment on account of demand of dowry of Rs.30 lacs and furniture. Complainant came back to her matrimonial home Jashpur where she delivered a child. After birth of child, neither applicant nor his family members came Jashpur to look after the child. It was further alleged that applicant has stated that it is complainant who wanted the child and therefore, it is her responsibility to look after him. Based upon report, FIR was registered against applicant and his family members.
3. Learned counsel for the applicant submits that allegations levelled against applicant is absolutely false and frivolous. Complainant could not able to adjust herself in her matrimonial house and left the matrimonial house with her brother. Applicant has filed petition under Section 39 of Cr.P.C before Court of

Jurisdictional Magistrate, Jamshedpur intimating the conduct of complainant of leaving her matrimonial house. Applicant and his family members have tried level best to bring back the complainant to her matrimonial house, but they did not succeed. Applicant has filed an application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. Said application was registered and notice was issued to complainant. Complainant made her appearance and submitted reply on 06.04.2021. In her reply, there is no mention that applicant has performed earlier marriage, prior to marriage with her. Allegation of earlier marriage of applicant is also false and baseless. Complainant herself has moved an application before Sakhi Stop Centre, Jashpur for their counselling. Her statement was recorded but there also no mention of allegation of earlier marriage of applicant. Offence under Section 494 of IPC is non cognizable, there is no specific allegation with regard to demand of dowry. Applicant is working as "Chartered Accountant" and there are chances of settlement of dispute between the parties. Other co-accused persons have been enlarged on anticipatory bail. Hence, applicant may be enlarged on anticipatory bail.

4. Learned State Counsel as well as learned counsel for the Objector/complainant oppose the submissions made by learned counsel for applicant and submits that, apart from allegation of ill-treatment, harassment and assault on account of demand of dowry of Rs.30 lacs and furniture, there is further allegation in the complaint and FIR that applicant was earlier married with one Latta Samani and also having child from her earlier marriage. Suppressing his earlier marriage, applicant performed second marriage with complainant. During the course of investigation, Police has seized copy of marriage certificate of the Registrar of Marriage, Jamshedpur of applicant with Latta Samani on 22.09.2016. As the applicant has performed marriage with complainant during the subsistence of first marriage, complainant has been cheated, and is cruelty upon her.
5. Heard learned counsel for the parties.

6. Applicant along-with bail application has filed copies of informatory application before the Court of JMFC, Jamshedpur as well as petition under Section 9 of the Hindu Marriage Act, 1955 registered as Civil Suit **No.69/2021** along-with copy of FIR. In first para of FIR, there are allegations of earlier marriage with Latta Samani and having one child from that marriage, but applicant has not taken any specific ground stating the allegation to be false. Copy of marriage certificate of the office of the Registrar of Marriage, Jamshedpur is part of the case diary as submitted by State Counsel. The word cruelty used under Section 498 (A) of IPC has been further explained, which is having very wide connotation wherein cruelty can be mental or physical.
7. Considering the entire facts and circumstances of the case, nature of allegations, copy of marriage certificate of applicant with Latta Somani available in case diary, I do not find it to be a fit case to enlarge the applicant on anticipatory bail.
8. Accordingly, bail application is rejected.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-