

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC (A) No.1122 of 2021**

- Kamlesh Sarthi, S/o Sukhram Sarthi, aged about 35 years, residence of village Bhagwanpur, P.S. Kotraroad, Tahsil and District Raigarh (CG)

**---- Applicant****Versus**

- State of Chhattisgarh, through Police Station Women Police Station, Bhilai, District Durg (CG)

**---- Non-applicant**

|                   |   |                                     |
|-------------------|---|-------------------------------------|
| For Applicant     | : | Mr. Vineet Kumar Pandey, Advocate.  |
| For Non-applicant | : | Ms. Anjali S Chouhan, Panel Lawyer. |

**Hon'ble Mr. Justice Parth Prateem Sahu**  
**Order On Board**

**16/9/2021**

1. This is first application under Section 438 of CrPC for grant of anticipatory bail to applicant as he apprehends his arrest in connection with Crime No.69/2021 registered at Women Police Station Bhilai, District Durg (CG) for commission of offence punishable under Section 498A, 34 of IPC.
2. Case of the prosecution, in brief, is that applicant got married with complainant on 25.3.2018 and after marriage, complainant started residing with applicant in her matrimonial home. After one month of marriage, applicant, his mother, father & sister started harassing and ill-treating complainant for bringing inadequate dowry and sub-standard quality of articles in marriage. They also started demanding cash of Rs.5 Lakhs as dowry. On account of non-fulfilment of demand of dowry, applicant along with other family members ousted the complainant on 19.7.2019 and since then she is residing with her widow mother. Complaint was lodged on 10.8.2021 based upon which FIR is registered against applicant and in-laws of complainant i.e. father-in-law, mother-in-law & sister-in-law.
3. Mr. Vineet Pandey, learned counsel for applicant submits that after marriage, complainant could not be able to adjust herself

in family of applicant. Complainant out of her own will left her matrimonial home and started residing with her mother. Applicant and his father have made attempts to resolve dispute and for reunion of applicant and complainant and in this regard, applicant has submitted applications before the Community on 24.11.2019 & 29.11.2019. However, neither the complainant nor anyone else on behalf of complainant appeared before the Community. Applicant again submitted an application before the Community on which meeting was called on 16.2.2020 but this time also complainant did not turn up, as a result, the elder members of Community advised applicant to take recourse of law. Thereafter, on 6.5.2020 applicant submitted complaint in Police Station Kotraroad regarding threat given by complainant. Applicant, who is interested to continue marital relationship with complainant, has also filed an application under Section 9 of the Hindu Marriage Act, 1955 before the Family Court, Raigarh for restitution of conjugal rights and in which notice to complainant is also issued. The proceedings of Family Court are also placed on record as Annexure A-2. Complainant avoided service of notice upon her and after getting knowledge that applicant has filed an application for restitution of conjugal rights, lodged report on 10.8.2021 levelling false allegations against applicant, his parents and sister. The mother, father and sister of applicant have already been granted anticipatory bail by the Court below concerned on similar allegations.

4. Ms. Anjali Singh Chouhan, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that as per allegations levelled in complaint, within one month of marriage, applicant and his family members have started harassing and ill-treating the complainant as also started demanding cash of Rs.5 Lakh. The complainant was ousted from her matrimonial home on 19.7.2019 and since then she is residing with her widow

mother. There are specific allegation against applicant of commission of aforementioned alleged offence, hence applicant is not entitled to be released on anticipatory bail. However, upon putting a specific query whether after receipt of complaint by police station, any counselling proceeding has been drawn or not, she submits that complaint was sent to the Counselling Centre concerned where complainant appeared and has made statement that applicant has performed second marriage and she does not want to reside with him and thereafter counselling proceeding was closed.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations levelled against applicant in complaint; period of marriage; the fact that applicant has already filed application for restitution of conjugal rights; and in-laws of complainant have been granted anticipatory bail by Court below concerned, without commenting anything on merits of case, I am inclined to enlarge applicant on anticipatory bail.
7. Accordingly, application filed under Section 438 of CrPC for grant of anticipatory bail is allowed. It is directed that in the event of arrest of applicant in connection with 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 Arresting Officer. Applicant shall also abide by the following conditions :
  - (i) that he shall make himself available for interrogation before Investigating Officer as and when required;
  - (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him /her from disclosing such facts to the Court or to any police officer;
  - (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-  
(Parth Prateem Sahu)  
Judge

roshan/-