

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1235 of 2021**

- Mahesh Kumar Sharma S/o Late Shri J.P. Sharma aged about 48 Years R/o House No. 68, Old Shiv Mandir Colony, Vaishali Nagar, Police Station Vaishali Nagar, Bhilai, Tehsil and District Durg, Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: the Station House Officer, Police Station Mahila Thana Bhilai, District Durg, Chhattisgarh

-----Non-applicant

For Applicant : Mr. Ashish Surana, Advocate
 For Non-applicant- State : Ms. Anjali Singh Chouhan, P. L.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****05/10/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 71/2021 registered at Police Station Mahila Thana, Bhilai, District Durg (C.G.) for the offence punishable under Section 498-A of IPC.
2. Case of the prosecution in brief, is that, written report was lodged by wife of applicant making allegation against applicant of ill-treatment, harassment and threat upon her. After receiving the written report, it was forwarded to Mahila Thana, Bhilai, where counselling proceedings have taken place on 15.08.2021. In the counselling proceedings, complainant had refused to reside in the company of applicant on the ground mentioned in the written complaint. Thereafter, FIR was registered on 19.08.2021 against applicant for offence under Section 498-A of IPC.

3. Mr. Ashish Surana, learned counsel for the applicant would submit that the marriage between applicant and complainant was a love marriage on 23.01.2006, thereafter, at the instance of parents, marriage between applicant and complainant again solemnized following social rituals on 18.05.2006. Since last 15 years, there was no allegation against applicant of the nature as alleged in the complaint nor complainant has made any report to any of the authorities. He submits that the dispute arose during covid-19 pandemic when applicant lost his elder brother due to covid-19 and the burden of deceased' family has come upon the shoulder of applicant. Applicant somehow wanted to manage his family and the family of his deceased brother and extend help for their livelihood but this was objected by complainant and this was the cause of dispute. He submits that in the counselling proceedings, applicant has made statement that he has not committed any offence and he wants to keep his marital relationship alive. He also submits that after knowing the intention of complainant that she does not want to live in the company of applicant, he has also filed an application under Section 9 of the Hindu Marriage Act before the Family Court. Learned counsel further submits that the complainant is a working lady doing the job of Assistant Professor in Government College, hence, the nature of allegation levelled against applicant from the face of it, is false and baseless. He submits that considering the nature of allegations and period of marriage, applicant may be enlarged on anticipatory bail.
4. On the other hand, Ms. Anjali Singh Chouhan, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that in the written report as well as in the FIR, same allegations of ill-treatment, harassment and threatened by means of weapon are there, hence, applicant is not entitled for benefit of

anticipatory bail. However, learned State counsel does not dispute that in the counselling proceedings, applicant has stated that he wants to keep applicant in his company and he has not committed any offence while complainant refused to live along with applicant.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration, nature of allegations, period of marriage and further the fact that the applicant has filed an application under Section 9 of Hindu Marriage Act before the Family Court, without commenting anything on merits of the case, I am inclined to allow the bail application.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (71/2021), 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/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicant shall also abide by the following conditions:
 - (i) that the applicant shall make himself available for interrogation before the Investigation Officer as and when required;
 - (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicant 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