

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.1286 of 2021**

- Kuleshwar Prasad Sinha, son of Ballu Ram Sinha, aged about 32 years, R/o Shriram Nagar, Khapari, Tahsil and District Durg (CG)

---- Applicant**Versus**

- State of Chhattisgarh, through the Station House Officer, Police Station Mahila Thana, Durg, District Durg (CG)

---- Non-applicant

For Applicant	:	Mr. P.K. Dhurandhar, Advocate
For Non-applicant	:	Mr. Srikanth Kaushik, Panel Lawyer.
For Objector	:	Mr. Avinash Chand Sahu, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****30/11/2021**

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to applicant as he apprehends his arrest in connection with Crime No.88/2021 registered at Mahila Thana Durg, District Durg (CG) for commission of offence punishable under Section 498-A, 34 of IPC.
2. Case of the prosecution, in brief, is that applicant performed marriage with complainant on 18.4.2017, from their wedlock, they have been blessed with a child. In the year 2018 complainant lodged report in concerned police station making allegation of harassment, ill-treatment and cruelty upon her by applicant and his mother for demand of dowry. Report was forwarded to the Counselling Authority, during counselling proceedings, complainant agreed to join company of applicant. Applicant and his mother again started harassing and ill-treating complainant for demand of dowry. As a result, complainant left her matrimonial home on 9.2.2021 and immediately thereafter lodged report making allegation against applicant and his mother of harassment, ill-treatment and assaults upon her. Report was again forwarded to the Counselling Authority. During the course of counselling proceedings, complainant stated that she does not want any

counselling proceeding and she wants action against her husband and mother-in-law. Accordingly, FIR is registered on 4.9.2021 against applicant and his mother.

3. Mr. P.K. Dhurandhar, learned counsel for applicant would submit that applicant has not committed any offence as alleged against him. Complainant-wife could not able to adjust herself in matrimonial home, she was not discharging her matrimonial duties, which was the cause for dispute between them. On alleged date of incident also i.e. 9.2.2021, complainant was not discharging her duties, she kept keys of motorcycle of applicant, due to which some dispute took place between them. There is no allegation of demand of dowry. Allegations made in FIR against applicant and his mother are omnibus and general in nature. Allegation of assault is also fabricated and concocted story. After leaving matrimonial home, complainant filed an application under Section 125 CrPC before Family Court in which compromise has been arrived at between parties under which applicant is paying monthly maintenance of Rs.4,200/- to complainant and his child. Immediately after fixation of maintenance amount, complainant moved an application under Section 127 of CrPC seeking enhancement in maintenance amount, which itself suggests that complainant somehow wanted to grab money from applicant. Applicant is still ready to keep complainant and his child with him. Hence, applicant may be extended benefit of anticipatory bail under Section 438 of CrPC.
4. Mr. Srikant Kaushik, learned Panel Lawyer for the State opposes the submissions of learned counsel for applicants and submits that this is second report lodged by complainant against applicant and his mother. After lodgement of first report, both the parties entered into compromise. When this second complaint was forwarded to the Counselling Authority, applicant appeared and admitted that he had assaulted the complainant on 9.2.2021. Learned counsel read over

contents of counselling proceeding dated 24.3.2021 available in case diary. He also submits that in the statement recorded under Section 161 CrPC, complainant specifically stated about ill-treatment and harassment by applicant and his mother on account of demand of dowry of Rs.2 Lakh. Hence, applicant is not entitled for grant of anticipatory bail.

5. Mr. Avinash Chand Sahu, learned counsel appearing on behalf of Complainant would submit that applicant was continuously harassed, ill-treated and assaulted by applicant and his mother. Even after entering into compromise before the Counselling Authority in the year 2018, the act of assault and harassment continued which forced complainant to leave her matrimonial home. Complainant in her report has specifically stated that she is afraid of act of applicant and his mother, therefore, she prayed for action against them. There was demand of dowry by applicant and his mother, this fact also stated by parents of complainant in their statement recorded under Section 161 CrPC.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of case; nature of allegations against applicant; contents of counselling proceedings dated 24.3.2021, which is available in case diary and readout by learned counsel for the State; period of marriage; and the fact that applicant and complainant have been blessed with a child, without commending anything on merits of case, I am inclined to grant benefit of anticipatory bail to applicant.
8. Accordingly, anticipatory bail application is allowed and 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/- with one surety in the like sum to the satisfaction of the Arresting Officer. Applicant shall also abide by 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 trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-