

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No.1309 of 2021**

- Piyush Tondon, aged about 35 years, son of Shri Doman Lal Tondon, R/o Plot No. 180/10, Road No.02, Pragati Nagar, Risali, Bhilai, District Durg (CG)

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

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

**---- Non-applicant**


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| For Applicant     | : | Mr. Neeraj Kumar Mehta, Advocate |
| For Non-applicant | : | Mr. Roshan Dubey, Panel Lawyer.  |
| For Objector      | : | Mr. P.K. Patel, Advocate         |

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**Hon'ble Mr. Justice Parth Prateem Sahu****Order On Board****15/12/2021**

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.96/2021 registered at Mahila Thana Durg, District Durg (CG) for commission of offence punishable under Section 498-A, 34 of IPC and Section 4 of the Dowry Prohibition Act.
2. Case of the prosecution, in brief, is that complainant, wife of applicant, lodged written report in concerned police station on 17.9.2021, based upon which aforementioned crime is registered against applicant and his family members. Contents of complaint are that marriage of applicant and complainant was solemnized on 15.2.2018. After marriage, applicant resided with complainant in his parents' home in Bhilai for couple of days and thereafter proceeded to Panna (MP) to join his duties. After about three months, when applicant returned Bhilai from Panna (MP), complainant informed him about ill-treatment and harassment meted out to her by parents and sister of applicant. However, instead of taking action against his family members, applicant supported them. Thereafter applicant took complainant along with him to Panna where he committed unnatural sex with complainant,

made video of same and used to threaten complainant of making said video viral. Applicant is habitual drunkard, he used to beat complainant under intoxication. There is also allegation that since time of marriage applicant along with his family members harassed and ill-treated complainant for demand of gold chain, car and cash of Rs.50 Lakhs.

3. Mr. Neeraj Kumar Mehta, learned counsel for applicant would submit that applicant is working as Branch Manager in State Bank of India and presently he is posted in Balaghat (MP). Immediately after marriage, applicant could not take complainant with him to his work place for want of arrangements. However, after some time, applicant took complainant along with him to Panna where both resided together and during that period there was no allegation of any nature against applicant or any of his family members. During their stay in Panna, applicant noticed that after he falls asleep, complainant talks on mobile with some other person in late night. When applicant objected to the same, she started behaving abnormally. Applicant reported said act of complainant to her parents upon which a meeting of both families was held on 20.4.2019 in which father of complainant wrote letter of apology, which is placed on record as Annexure A-3. Thereafter applicant along with complainant went back to his place of work, but there was no change in attitude and behaviour of complainant and she continued with her activities. Complainant also threatened applicant to implicate him and his family members in a false case. Consequently, on 16.2.2021 applicant lodged complaint before Mahila Thana, Durg; Superintendent of Police, Durg and President, Guru Ghasidas Sewa Samiti, Sector-6 Bhilai (in his community). Complaint lodged by applicant was forwarded to the Counselling Authority. Complainant appeared before the Counselling Authority on 5.3.2021, her statement was recorded in which she has not levelled allegation of any nature against applicant or his family members , as alleged in report

dated 17.9.2021, and only stated about some trivial disputes between her and applicant. Subsequently, in proceeding dated 12.3.2021 complainant levelled allegation of ill-treatment and harassment by applicant and her in-laws for demand of dowry. He submits that when allegation in complaint dated 17.9.2021 is that applicant ill-treated and harassed complainant, committed unnatural sex with her, made video of said act, threatened complainant to make that video viral on social sites, then why she did not disclose all these facts in meeting dated 20.4.2019 held between two families in which considering allegations levelled by applicant, father of complainant tendered apology, which was also reduced into writing, which is filed as Annexure A-3. Furthermore, complainant has not disclosed aforesaid facts to anyone prior to 17.9.2021 or prior to filing of complaint by applicant before several authorities or to the Counselling Authority on first date of her appearance i.e. 5.3.2021. Hence, it is clear that entire allegations levelled are afterthought and made after closure of counselling proceedings, complaint of applicant by drawing proceedings under Section 155 CrPC. Applicant has not committed any offence as alleged against him in complaint filed subsequently. Applicant is a government servant, working as Branch Manager in State Bank of India, hence he may be extended benefit of anticipatory bail under Section 438 CrPC.

4. On the other hand, Mr. Roshan Dubey, learned Panel Lawyer for the State opposes the submissions of learned counsel for applicant and submits that serious allegations are levelled against applicant and his family members by complainant in her written report dated 17.9.2021. In support of his contention, he read out contents of complaint, FIR as also statement of complainant recorded under Section 161 CrPC. He submits that looking to nature of allegations levelled against applicant, he is not entitled to benefit of anticipatory bail under Section 438 of CrPC.

5. Mr. P.K. Patel, learned counsel for complainant/objector vehemently opposes submission of learned counsel for applicant and submits that looking to conduct of applicant, particularly of committing unnatural sex with complainant, making video thereof; threat of making it viral; harassing & ill-treating complainant for demand of dowry i.e. gold chain, car & cash of Rs.5 Lakh, applicant is not entitled to benefit of anticipatory bail. However, learned counsel for complainant/objector does not dispute document of Annexure A-3, which is apology letter stated to have been written by father of complainant, as also counselling proceedings drawn on application of applicant.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of case; nature of allegations; documents placed on record along with application i.e. apology letter, complaint lodged by applicant and counselling proceedings drawn thereon wherein on the first date of her appearance, complainant has not levelled allegation of any nature against applicant or his family members but for trivial disputes between her and applicant, period of marriage, without commenting 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/-