
(2023) 04 CHH CK 0051

Chhattisgarh High Court

Case No: Miscellaneous Criminal Case (Anticipatory Bail) No. 184 Of 2023

Yogesh Kumar Sen

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: April 27, 2023

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 438
- Indian Penal Code, 1860 - Section 34, 377, 498A

Hon'ble Judges: Deepak Kumar Tiwari, J

Bench: Single Bench

Advocate: Fouzia Mirza, Navin Shukla, Shakti Singh Thakur

Final Decision: Allowed

Judgement

1. This 1st anticipatory bail application under Section 438 of the Code of Criminal Procedure has been filed by the Applicant, who is apprehending his

arrest in connection with Crime No.09/2023 registered at PS Mahila Thana, District Raipur (CG) for the offence punishable under Sections 498-A and

377/34 IPC.

2. Prosecution case in brief is that the marriage of the present Applicant was solemnized with Complainant Ritu Shrivastava Sen on 19.04.2022 and at

engagement ceremony, the Applicant's family made a demand for a car and other household articles and Tata Tiago Car has also been purchased

and given to them but the Applicant did not like the same and returned it with its documents within one month of the marriage. It is alleged that

thereafter, the present Applicant and his family members started harassing the Complainant by beating her, the Complainant had given her jewelry to

her mother-in-law and in the month of May, 2022, she had gone back to her maternal home with her mother and brother. It is further alleged that after

reconciliation, she had come back to her in-law's house, thereafter, the present Applicant took her to Bangalore to live separately and there also

he had ill-treated her. It is alleged that the Complainant started working in a Company-ICUBES WIRE at Bangalore and used to get exhausted with

household and official work, in spite of which, the present Applicant never hired any maid and also used to do unnatural sex with her against her will

and wish. It is also alleged that during teeja festival, when she came to her maternal home, then he threatened her not to continue their relationship and

since then she is residing there itself and based upon these allegations, the aforesaid offence has been registered against the present Applicant.

3. Learned Senior Advocate for the Applicant submits that the Complainant/wife was not interested to live with her in-laws as there is no AC and etc.

there for which, he purchased all such items and even then she never tried to adjust there and always insisted to live separately and when he told her

that his parents are old and there is no except him to take care of them, then she threatened him to implicate all of them in a false case. She further

submits that on 6.05.2022, without informing anyone, she left the house in the car and also taken all the jewelry with her, thereafter, some

reconciliation took place after which, on 05.06.2022, she had gone with her husband on the condition that he would take her to the place where she

was working in the Company and while residing there also, her nature did not change and used to fight with him for trivial issues, therefore, the

present Applicant booked a flight ticket for her on her will and thereafter, she never returned back, he tried his level best to reconcile at society level

also. She further submits that on 01.10.2022, the present Applicant gave an application before the Sen samaj, Durg for convening a meeting where,

the Complainant along with her family members was present and did not show any interest in living with the present Applicant even after the members

of the said Society have convinced her. She lastly submits that however, the present Applicant is willing to continue his relation with her even now

also. She further submits that if the present Applicant has been arrested and sent to jail, then his family would suffer as he is the only earning member

and the same will also frustrate the object of reconciliation to resolve the issue arose in their matrimonial life. She further submits that the Complainant

has not returned the car which was received at the time of marriage, she herself has taken it to her matrimonial home, the present Applicant was

given interim protection also which was never misused by him and considering all these aspects, the present Applicant may be granted anticipatory

bail.

4. Per contra, learned Counsel for the State opposed the said prayer.

5. This Court deems it appropriate to take note of an observation made in the matter of Kahkashan Kausar alias Sonam and others Vs. State of Bihar

and others reported in (2022) 6 SCC 599, which is as under:-

“11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section

498-A IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention.

However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection

and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-

A IPC as instruments to settle personal scores against the husband and his relatives.

12. This Court in its judgment in Rajesh Sharma Vs. State of U.P. (2018) 10 SCC 472 has observed as under:-

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife

particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the

Act 46 of 1983. The expression "cruelty" in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury

(mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. [Explanation to Section 498-A]. It is a matter

of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married woman. We have already

referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the

heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and

consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant.

Uncalled for arrest may ruin the chances of settlement.

14. Further in Preeti Gupta Vs. State of Jharkhand (2010) 7 SCC 667 it has also been observed:-

"32. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial

issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique

motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or

demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the

complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain

its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the

parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social

fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple

cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such

complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.Ã¢â¬â¢

6. In the light of aforesaid principles and considering the submissions made by counsel for the parties and also considering the nature of accusation,

this Court is of the view that there is a hope of an amicable settlement between the parties and today also, learend Senior Advocate for the Applicant

stated the same, therefore, I am inclined to grant anticipatory bail to the present Applicant.

7. Accordingly, the application is allowed and it is directed that in the event of arrest of the Applicant, on executing a personal bond for a sum of Rs

25,000/- with one surety in the like sum to the satisfaction of the arresting Officer, he shall be released on bail on the following conditions:-

(a) he 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

from disclosing such fact to the Court.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

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

(d) the Applicant and the surety shall submit a copy of their adhaar card along with a coloured postcard full size photo having printed the adhaar

number on it, which shall be verified by the trial Court.

(e) he shall not involve himself in any offence of similar nature in future.