

## **MCRC-5117-2016**

*(SUMIT KUMAR Vs THE STATE OF MADHYA PRADESH)*

**28-04-2016**

Shri Anil Khare, Senior Advocate with Shri Jasmeet Singh Hora, Advocate for the petitioner.

Shri Pradeep Gupta, Panel Lawyer for the respondent/State.

Heard on this first application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on behalf of petitioner Sumit Kumar in Crime No.107/2015 registered by Mahila Police Station, District-Bhopal, under sections 498-A and 506 read with section 34 of the Indian Penal Code and section 3 and 4 of the Dowry Prohibition Act, 1961.

As per prosecution case, petitioner Sumit Kumar, who is based in Maryland United States of America, married victim Jaya Sharma in the Court on 05-07-2014 by Hindu rites on 08-03-2014, at Bhopal. Victim's mother Alka Sharma had given her house-hold items worth Rs.10,00,000/- in the marriage. On 09-03-2014, the parents of Sumit Kumar asked him not to take the victim to her matrimonial home at Gorakhpur until and unless her mother paid Rs.10,00,000/- in dowry. The mother of the victim was constrained to give Rs.4,00,000/- more in cash on 10-03-2014. Thereafter, the victim was taken to Gorakhpur where the parents of the petitioner continued to harass and taunt her for dowry. Thereafter, the victim went to America with the petitioner on 13-03-2014. Even in America, petitioner Sumit Kumar kept harassing and beating her for dowry. On 01-05-2015, they returned to Gorakhpur. On 05-05-2015, she was sent to Bhopal. On 08-05-2015, petitioner Sumit Kumar came to

Bhopal and demanded Rs.10,00,000/- for getting some work done in their house at Bangalore. Even on that occasion, victim's mother Alka Sharma paid Rs.4,00,000/- to petitioner Sumit Kumar. Thereafter, petitioner's parents Narsingh and Pushpa told the victim on telephone that unless she brought Rs.10,00,000/-, she would not be admitted in the matrimonial home. After that, she stayed with petitioner's parents at Gorakhpur between 23-05-2015 and 26-05-2015. When they returned to America, petitioner took her to a doctor for the purpose of getting her declared mentally ill. The Doctor sent her to a shelter house home, wherefrom she returned to India with the help of a Social Organisation and Indian Embassy in US.

Learned counsel for the petitioner submitted that he has filed documents of ICICI Bank in order to demonstrate that far from demanding dowry from Jaya Sharma, he had, in fact, transferred about Rs. 1,00,000/- in the name of Alka Sharma, the mother of the victim, during the period between 16-04-2015 and 04-07-2014. The petitioner has also filed numerous photographs of the estranged couple taken on various occasions in U.S., portraying perfect picture of marital bliss and harmony. Copy of order dated 06-10-2015 showing that Sumit had obtained "Limited Divorce" from a Circuit Court in Montgomery County, Maryland, U.S.A. has also been filed. Copy of another order dated 07-06-2015, dismissing a petition for want of evidence, filed by victim Jaya Sharma before the same Court for protection, has also been filed. Documents and copies of E-mail have also been filed for showing that the petitioner took keen interest in victim Jaya's

career as a dentist in U.S. and arranged for her studies and her attendance in various dental clinics. It has also been contended that as per application submitted by the victim the petitioner earns approximately Rs.2,00,00,000/- in U.S. In such a situation, the allegation that he demanded Rs.10,00,000/- in dowry from the mother of the victim, who is a widow, is ridiculous.

In aforesaid circumstances, relying upon the case of **Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273**, learned Senior Counsel for the petitioner has prayed for anticipatory bail.

It may be noted here that Narsingh and Pushpa, parents of the petitioner, have been granted the benefit of anticipatory bail by order dated 23-12-2015 passed in **M.Cr.C.No.21163/2015** by this Court.

Learned Panel Lawyer for the respondent/State on the other hand, has opposed the application on the ground that there are specific allegations of harassment for dowry and cruelty against the petitioner. This is a case where an Indian bride was taken to U.S. and was subjected to cruelty for dowry.

Keeping in view the facts and circumstances of the case in their entirety, particularly the documents filed by the petitioner and the fact that custodial interrogation does not appear to be necessary, as also the observations made by the Apex Court in the case of *Arnesh Kumar (supra)* with regard to offences under section 498-A of the Indian Penal Code and section 4 of the Dowry Prohibition Act, 1961, this Court is of the view that the applicant deserves the benefit of anticipatory bail.

Consequently, the application is accordingly allowed.

Now the question arises as to what conditions may be imposed in order to ensure that the petitioner, who is admittedly based in U.S., does not flee from justice.

In this regard, learned counsel for the petitioner has submitted that the petitioner has a job in U.S. and if his passport is directed to be deposited, he would lose his job which would virtually shatter his life. Relying upon the judgment rendered by the Apex Court in the case of **Suresh Nanda vs. C.B.I., 2008 Cri.L.J. 1599** and by High Court of Chhattisgarh in the case of **Pushpal Swarnkar vs. State of Chhattisgarh in Criminal Revision No.715/2008**, it has been held that the Court has no jurisdiction to impound the passport and it can only be done by the Passport Authority under section 10(3) of the Passports Act, 1967.

It has further been prayed that short of depositing the passport, the Court may impose any condition for ensuring co-operation of the petitioner during investigation and trial.

Keeping in view the aforesaid contentions, it is directed that in the event of his arrest, the petitioner shall be released on bail on his furnishing a personal bond in the sum of **Rs.10,00,000/-** and two solvent sureties in the sum of **Rs.5,00,000/-** each to the satisfaction of the Arresting Officer for his appearance before the trial Court on all dates and for complying with the conditions enumerated in sub section (2) of section 438 of the Code of Criminal Procedure.

Certified copy as per rules.

(C V SIRPURKAR)  
JUDGE

