



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 14.01.2025*

+ **BAIL APPLN. 3790/2024**

BILAL ANSARI

.....Applicant

Through: Mr. Yogesh Sharma, Advocate

versus

STATE (THROUGH SHO PS JYOTI NAGAR)Respondent

Through: Mr. Raj Kumar, APP for the
State with SI Pankaj Kumar,
PS. Jyoti Nagar

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The instant application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter '*BNSS*') has been filed on behalf of the applicant seeking grant of anticipatory bail in case arising out of FIR bearing No. 218/2024 registered at Police Station Jyoti Nagar, Delhi for offence punishable under Sections 498A/406/34 of Indian Penal Code, 1860 (hereafter '*IPC*') and Section 3/4 of Dowry Prohibition Act, 1961.

2. Briefly stated, the facts of the present case are that the marriage between the complainant and the accused was solemnized on 25.02.2022, as per Muslim customs, at the Mohammadi Masjid



Kardampuri, Delhi, with the dower fixed at Rs. 20,000. The wedding reception was held on 05.03.2022 at Green Garden Farm House, Village Sabhapur, following which the complainant had retired to her in-laws' residence at New Seelampur, Delhi. At the time of the complainant's departure, her parents and relatives had given dowry items – including a Creta car, Bullet motorcycle, gold and silver jewellery, furniture, appliances, utensils, and a sum of ₹5,25,000 in cash – as per the demands made by her in-laws. Additionally, the complainant's family had performed all pre-marital ceremonies, such as engagement, Roka, Haldi, and the Nikah, as per the instructions of the in-laws, incurring significant expenses. After the marriage, the complainant had noticed a significant change in the behaviour of her in-laws. They had allegedly started taunting her over various issues, speaking harshly, and verbally abusing her family. On 25.03.2022, when the complainant had questioned her husband about this behavior, he had abused her and, along with his parents and siblings, accused her father of providing insufficient dowry. They had demanded a Fortuner car instead of the Creta and had insulted her for being outspoken. This had escalated to physical violence, with her husband slapping her, followed by beatings from the other in-laws. Over the subsequent days, her in-laws' harassment intensified. Despite fulfilling her household responsibilities, the complainant had been subjected to nightly demands to cook at odd hours. On 25.04.2022, her in-laws had demanded an additional ₹25,00,000 from her father, threatening to divorce her if she failed to comply. When the complainant's parents had arranged ₹5,00,000 and handed it over



to her father-in-law, the in-laws had assured them they would not harass her further. However, this promise had only lasted a few days before the abuse resumed. On the night of 20.06.2022, the in-laws had demanded the remaining ₹20,00,000 and, upon refusal, had physically assaulted the complainant. Her father-in-law had pushed her down the stairs, causing her significant injuries. Despite her injuries, her in-laws had falsely claimed to neighbors that the fall had been caused by a rat. By 01.08.2022, the complainant was allegedly moved out of her in-laws' house and left at her parents' residence. Her in-laws had retained all her belongings, including gold and silver jewelry, clothing, and essential documents such as her PAN card, Aadhaar card, and educational certificates. Despite multiple requests, these items had not been returned. While living with her parents, the complainant had given birth to a son on 22.02.2023 through a caesarean operation at K.G. Medical Center, Delhi. All the expenses had been borne by her parents. Despite being informed about the birth, her husband and in-laws had neither visited nor inquired about her or the child's well-being. Since 01.08.2022, the complainant had been living as a financial burden on her parents, with no support from her husband or in-laws. On the basis of these allegations, the present FIR was registered.

3. The learned counsel appearing on behalf of the applicant argues that the allegations levelled in the present FIR and the complaint are not specific and the applicant has been falsely implicated. It is stated that there are no specific allegations as to whom the dowry articles were entrusted and therefore, the present



applicant solely cannot be held responsible for non-return of the dowry articles. It is also stated that the applicant/accused had to get remarried since his mother was not keeping well, and she wanted him to settle down during her lifetime. The learned counsel states that the applicant does not dispute that he had sold the car which was given as dowry article at the time of his marriage in the present case for an amount of about ₹6 lakhs, though the original value of the vehicle in question was about ₹13 lakhs. It is stated that the applicant is willing to give ₹6 lakhs towards the said car to the complainant. It is contended that the applicant had joined the investigation, and at no point of time has refused to return the dowry articles to the complainant. It is stated by the learned counsel that towards full and final settlement of this case, the applicant is willing to pay Rs. 6 lakhs for lifelong maintenance for his wife, and the child who is more than 1 ½ years old. The learned counsel for the applicant also states that the present case is of normal wear and tear of the marriage and not a case where the complainant has been found in hospital or has been subjected to utmost cruelty leaving the senior officers to issue orders for arrest of the present accused/applicant. Thus, it is prayed that the present applicant be granted anticipatory bail.

4. The learned APP for the State, and the learned counsel appearing on behalf of the complainant, on the other hand, draw this Court's attention to the complaint filed in this case, and submit that there are specific allegations of demand of dowry for harassing the complainant. It is also stated that at the time of moving his first bail application before the learned Trial Court, the applicant/accused had



suppressed the fact of his second marriage. It is stated that it is mentioned in the order of learned ASJ that the defence counsel disputes the second marriage of the present complainant, however, the video footage of second marriage was played in the Court, and thereafter, the learned Trial Court had rejected the bail application of the applicant. It is thus prayed that the present anticipatory bail application of the applicant/accused be dismissed.

5. This Court has **heard** arguments addressed by learned counsel for both the parties, and has perused the material on record.

6. The allegations against the present applicant are that after marriage with the complainant on 25.02.2022, he and his family members had persistently harassed the complainant for demand of additional dowry, despite already having received substantial amount of money in cash and large amount of articles and ornaments including a Creta car, gold jewellery, and specifically ₹5,25,000 in cash. They had verbally and physically abused her, made repeated demands for a Fortuner car and ₹25,00,000, in cash. She was pushed down the stairs, causing injuries to her. Eventually, they had thrown her out of the matrimonial home, had retained her belongings, and had refused to return the dowry articles and her belongings despite repeated requests.

7. The contention of the learned counsel for the applicant that the applicant was willing to make a payment of ₹6 lakhs towards the vehicle given in dowry, although its original price was ₹13 lakhs, reflects that the vehicle in question was in-fact given as dowry article.



The investigation reveals that the entire cost of the vehicle had been borne by the complainant's father from his bank account. However, the vehicle was registered in the name of the accused. The learned counsel for the accused concedes before this Court that the applicant has remarried in the year 2024 itself. However, before the learned Trial Court, despite having contracted a second marriage, the applicant had not disclosed this fact and had admitted it when a video of his second marriage ceremony was played before the Court. Before this Court, he admits having remarried without obtaining a divorce from the present complainant. He submits that as per Muslim personal law, he was entitled to get married second time without obtaining divorce from the complainant.

8. It has been stated by the learned counsel for the applicant that the applicant had remarried since his mother was unwell, and he needed someone to take care of her, and his mother had wished for him to be well-settled in his family life during her lifetime. He has nowhere in his pleadings or during arguments stated that any efforts towards reconciliation were made by him or his family. Even when the matter was sent for mediation by this Court, the applicant had stated that he could offer only ₹6 lakhs as full and final settlement and payment of alimony for his wife and their minor child, who is merely 1 ½ years old. This amount, he admitted, was obtained by selling the car worth ₹13 lakhs that had been given to him as dowry which he has sold for ₹6 lakhs.

9. This Court observes that the allegations in the complaint are of



a serious and distressing nature. The complainant asserts that the accused not only subjected her to severe harassment but also retained her jewellery and other personal belongings, thereby depriving her of her rightful property. She further states that the accused's persistent threats of divorce and mental abuse caused her to consider ending her own life, highlighting the severity of the mental and emotional trauma inflicted upon her. The contention of the learned counsel for the applicant that it was a right of the accused to get married second time as he did not get along well with the complainant and having rightfully sold the vehicle given in dowry since it was registered in his name, brings forth, the malaise of even today, women being considered as a tool of enrichment and demanding cash, cars etc. in dowry and having no remorse for it. The conduct of the applicant, as revealed during the investigation and through his own admissions, further aggravates the matter. The fact that the applicant remarried without seeking consent from the complainant shows a disregard for his personal law and the sanctity of marriage. His justification for remarriage, citing his mother's wishes and health, and his plea during arguments that he was ready to take her back to the matrimonial home where his second wife now resides with him and his family and portraying that the refusal of the complainant to now stay with him as he is remarried and is living with his second wife, does not reflect that she deserted him and did not want to join his company. Neither does it reflect that her refusal now to join him back and his willingness to live with her in his home with his second wife, that he did not treat her with cruelty or did not demand dowry.



10. Additionally, the applicant's offer of ₹6 lakhs as a full and final settlement, an amount reportedly obtained by selling a vehicle given in dowry, reflects an attempt to trivialize the long-term financial and emotional needs of the complainant and their child, who is only 1 ½ years old and that he himself having remarried to be settled in life since his mother so wishes, had scant respect or responsibility for the complainant and their minor child who was less than one year old when he remarried without informing the complainant and misguiding the learned Trial Court.

11. The learned counsel for the applicant had also argued that it is not a case where the complainant was hospitalised due to cruelty or harassment committed upon her. Incidentally, this is also part of his written pleadings. This argument itself is not only unmerited but crosses the threshold of having a mentality where to make out a case of Section 498A serious, the woman should have injuries and medical treatment record of a hospital. This contention implies that the woman must be physically beaten and battered to the extent of requiring hospitalisation and only then it will make out a case of cruelty to be covered under Section 498A of IPC. Such a perspective fails to recognise the multifaceted nature of cruelty, which includes mental, emotional, and financial abuse, all of which are equally detrimental and fall within the ambit of Section 498A.

12. Allowing such an argument to prevail – that hospitalization is a prerequisite for invoking Section 498A – would erode the very purpose of the provision. Section 498A of IPC was enacted to



address the plight of women who suffer various forms of cruelty, not just physical abuse that results in visible injuries. If this ideology is allowed to grow, it will close the doors of justice for countless women who endure abuse behind closed doors, leaving them trapped in a distressing and oppressive environment. Such a narrow interpretation would render Section 498A ineffective, silencing many victims and perpetuating cycles of abuse. Therefore, this Court finds the argument advanced by the learned counsel for the applicant to be devoid of merit and fundamentally flawed, as it disregards the broader scope and protective intent of the law.

13. Selling the car given in dowry, remarrying when his child was less than a year old without consent or informing the complainant, misguiding the learned Trial Court and his counsel making statement that the applicant had not remarried despite having remarried, offering an explanation of having remarried to please his mother and to look after her, having not returned any of the dowry articles, not joining investigation, the seriousness of the allegations of harassing the complainant to the extent of forcing her to commit suicide, demanding a Fortuner car despite having received a Creta car worth ₹13 lakhs already in dowry, demanding ₹25 lakhs in cash, add to the seriousness of the offence. Notably, the child, who is only 1 ½ years old, was delivered at the parental home of the complainant, further indicating the absence of care and support from the applicant. The first marriage took place in 2022, and by 2024, the applicant had remarried, leaving the complainant and their minor child to fend for themselves.



14. Undoubtedly, while granting anticipatory bail in cases of Section 498A of IPC, while being guided by the principles laid down by the Hon'ble Supreme Court in catena of judgments, the Courts have to be conscious of many cases filed, which may indicate misuse of this Section, the facts of each case and the conduct of the accused in individual cases is the core question that a Court of law has to answer while granting or refusing bail. Once the applicant herein has not joined investigation, despite notices issued to him under Section 41A of Cr.PC, and thereafter issuance of Non-Bailable Warrants, the orders will follow accordingly. The nature of allegations and the conduct of the accused will also be the guiding factor while deciding an application for grant of anticipatory bail.

15. In view of these facts, coupled with the seriousness of the allegations, this Court finds no grounds to grant anticipatory bail to the applicant.

16. Accordingly, the application for anticipatory bail is dismissed.

17. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 14, 2025/ns