

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 274 of 2016

1. Daniel Varghese, aged about 60 years, S/o Shri Varghese Kunju, Occupation Service, working as Principal of MGM Senior Secondary School, Bhilai Nagar, R/o MGM Senior Secondary School, Sector-6, Bhilai Nagar, Tehsil and District Durg (C.G.)
2. Sajan Thomas, aged about 49 years, S/o Late Shri K. A. Thomas, Occupation Service, working as Correspondent for MGM Senior Secondary School, Bhilai, R/o MGM Senior Secondary School, Sector-6, Bhilai Nagar, Tehsil and District Durg, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh through District Magistrate, Durg (C.G.)

---- Respondent

For Applicants	:	Shri R. S. Marhas, Advocate
For Respondent/State	:	Shri Anil S. Pandey, Govt. Advocate
For Objector	:	Shri Kuldeep Dubey, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

10/03/2016

By way of the present application u/s 438 of Cr.P.C. the applicants have sought for grant of anticipatory bail apprehending their arrest in connection with Crime No. 130/2016 registered at Bhilai Nagar, District Durg, CG for the offence punishable under Section 202 of IPC and Sections 21 (2) & 17 of Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the present applicants is that the applicants who are holding responsible position in MGM Senior Secondary School, Bhilai had not taken any prompt action against the main accused S. Sunil when the parents of the victim in the present case reported the matter to Applicant No.1 on 24.02.2016 and on the contrary, the Applicants tried to give shelter and protection to the main accused.

3. Counsel for the Applicants submits that the Applicants have not in any manner played any role in commission of the offence which has been done by the main accused S. Sunil who is already in custody and therefore the Applicants may be granted anticipatory bail. He further submits that the entire allegations against the present Applicants are false and fabricated. He submits that after the incident came to the knowledge of the public, some vested interested people have lodged many FIRs on the same day making

charges against the main accused along with different staffs of the Institution with ulterior and mala fide intention. He submits that the present Applicants are holding high position in the School in as much as Applicant No.1 is the Principal and Applicant No.2 is the Correspondent of the institution and that there is no need for their custodial investigation. Counsel for the Applicants undertakes that the Applicants shall render full co-operation to the Police during investigation and also during the course of trial.

4. State counsel opposes the application on the ground that though the allegation against the Applicants for the offence under Section 202 IPC is bailable but the offence under Sections 21 (2) & 17 of Protection of Children from Sexual Offences Act is non-bailable and therefore the Applicants should not be granted anticipatory bail.

5. Counsel for the objector, however, opposes the bail application on the ground that the present Applicants have not discharged their duties efficiently and have given shelter to the main accused S. Sunil, therefore, they have been impleaded as accused in the present case. He draws the attention of the Court to the various FIRs lodged against the main accused S. Sunil and different members of the Staff of the institution and opposes the anticipatory bail application. He further submits that the custodial investigation of the Applicants is necessary for their disclosure as to whether earlier also there have been such complaints made or not and is also necessary taking into consideration the large scale public unrest in the said locality.

6. Considering the submissions made by the counsel for the parties and on perusal of the record what prima facie appears as far as the allegation against the present Applicants of not taking prompt action against the main accused S. Sunil and also not immediately reporting the matter to the Police authorities are concerned, the objector or the State both were not able to substantiate as to whether the matter was brought to the notice of the present Applicants much prior to the date of FIR. The sudden filing of many FIRs on the same day making the different staffs of the institution as accused along with the main accused S. Sunil also gives rise to some doubt. Admittedly, there is no direct allegation against the Applicants of having played an active role in commission of the offence which primarily is confined only against the main accused S. Sunil nor is there any allegation of abetment against the present Applicants.

7. Considering the total facts and circumstances of the case, this Court is of the opinion that it is a fit case where the present Applicants can be granted the advantage of being released on anticipatory bail.

8. In the result, the application u/s 438 Cr.P.C. is allowed. It is directed that in the event of arrest, the present applicants will be released on bail on

their furnishing a personal bond in sum of Rs.25,000 with one surety each in the like sum to the satisfaction of the officer arresting them or the Court concerned, as the case may be, then they will be released on bail on the following further conditions:-

- (i) that the Applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required;
- (ii) that the Applicants 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/her from disclosing such facts to the Court or to any Police Officer;
- (iii) that the Applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the Applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(P. Sam Koshy)
Judge