

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MISC. CRIMINAL CASE (A) NO. 906 OF 2017**

Akeel Memon, S/o Haji Mohammad Bhai Memon, aged about 48 years,  
R/o Village/Post Office/Police Station – Churiya, District Rajnandgaon  
(C.G.)

**... Applicant**

**versus**

State of Chhattisgarh, through the Station House Officer, Police Station-  
Churiya, District Rajnandgaon (C.G.)

**... Non-applicant**

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| For Applicant           | : | Mr. Prateek Sharma, Advocate.      |
| For Non-applicant/State | : | Mr. D.R. Minj, Dy. Govt. Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**04/12/2017**

1. The present is an application under Section 438 of CrPC seeking for grant of anticipatory bail to the Applicant who is apprehending his arrest in connection with Crime No.171/2017, registered at Police Station- Churiya, District- Rajnandgaon, for the offence punishable under Section 67(a) of the Information Technology Act.
2. As per the prosecution case, allegation against the Applicant is that he is said to have created his DP of his WhatsApp showing some sexually explicit photograph. A complaint in this regard was made on 3.10.2017 and and an FIR was lodged on 4.10.2017.
3. Learned Counsel for the Applicant submits that it is a case of false implication made against the Applicant inasmuch as the only material available with the prosecution is that of a screen-shot on the mobile phone of the Complainant and which could be created by any person and that the Applicant totally denies such a DP being his DP. He further submits that the mobile phone of the Applicant also has not been seized or recovered till date with which it could be established that the DP

on the basis of which the complaint has been made was from the mobile phone belonging to the Applicant.

4. Learned Counsel for the State however opposing the anticipatory bail application submits that it is a case where the investigation is still going on and therefore it would not be proper at this juncture to grant anticipatory bail to the Applicant.

5. Given the factual matrix of the case, particularly taking note of the fact that the only material available as of now with the prosecution is that of a scree-shot from the Complainant's phone and the fact that the Applicant's mobile phone has not been seized or recovered, coupled with the fact that the Applicant also has filed a written complaint against the Complainant before the same Police Station and which is pending consideration, this Court is of the opinion that prima facie a strong case is made out for grant of anticipatory bail.

6. Accordingly, the present application under Section 438 of CrPC is allowed. It is ordered that in the event of arrest of the Applicant in connection with Crime No.171/2017, registered at Police Station- Churiya, District- Rajnandgaon, for the offence punishable under Section 67(a) of the Information Technology Act, if he furnishes a personal bond for a sum of **Rs.25,000/- with one surety** of the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, then he shall be released on bail on the following further conditions :

- (i) that the applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
- (ii) that the applicant 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 applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and

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

Sd/-

**(P. Sam Koshy)**  
**Judge**

/sharad/