

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M. Cr. C. (A) No. 1066 of 2017**

Upendra Kumar S/o Ramji Yadav, aged about 28 years, R/o Ambuja Colony Rawan, Police Station City Kotwali, Balodabazar, District Balodabazar- Bhatapara, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station City Kotwali, Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Rajeev Kumar Dubey, Advocate
For Respondent/State	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/12/2017**

The present application under Section 438 of Cr.P.C. has been filed seeking for grant of anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 379/2017 registered at Police Station City Kotwali, Balodabazar, District Balodabazar-Bhatapara (CG) for the offence punishable under Sections 376 & 506 of IPC.

2. The case against the applicant, as per the prosecution, is that he is said to have had physical relationship with the prosecutrix for a considerable period of time and finally he refused to marry her which led to the filing of the FIR.

3. Counsel for the applicant submits that it is a case where as per the statement of the prosecutrix, she first had physical relationship with the applicant on 03.12.2011 i.e. almost 6 years ago and since then she had been continuously having physical relationship with the applicant without any protest and objection at any point of time. From her statement, it also reveals that the prosecutrix had gone at different places and had physical relationship with the

applicant. Counsel for the applicant submits that since the prosecutrix was a grown up and major lady, it is a clear case of consensual relationship and therefore, the applicant is entitled for grant of anticipatory bail.

4. State counsel however, opposes the bail application on the ground that the nature of allegation is serious and that the prosecutrix has been ditched by the applicant, therefore, he does not deserves to be granted anticipatory bail.

5. Given the facts and circumstances of the case particularly taking note of the contents of the statement of the prosecutrix, prima facie, this Court is of the opinion that there appears to be a case of consensual relationship between the two, therefore, the applicant is entitled for grant of anticipatory bail.

6. In the result, the application u/s 438 Cr.P.C. is allowed. It is directed that in the event of arrest of the present applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Officer arresting him or the Court concerned, as the case may be, with the following terms and 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