

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 240 of 2017**

Parsadi Yadav S/o Shri Pusau Yadav, Aged About 33 Years
Occupation Labour, R/o Taregaon Jangal, Tehsil Bodla, District
Kabirdham Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police
Station Taregaon Jangal, District Kabirdham Chhattisgarh

---- Respondent

For the Applicant : Shri Dinesh Tiwari, Advocate.
For the Respondent/State : Shri Arvind Kumar Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.12.2017**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 4 of 2017, registered at Police Station – Taregaon Jangal, District – Kabirdham, Chhattisgarh for the offences punishable under Sections 376 and 450 of the Indian Penal Code and Sections 3(2)(5) and 3(1)(12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case by the prosecutrix and no such incident has

taken place as has been alleged in the FIR lodged against him. During the course of hearing on the application under Section 438 of the Code of Criminal Procedure before the Sessions Court, the prosecutrix filed an affidavit submitting that no such incident has taken place as has been alleged in the FIR and she has no objection if the applicant is granted anticipatory bail. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect.

5. Heard counsel for both the parties and perused the case diary.

6. In the FIR against the applicant it was alleged that on the date of incident the applicant and the prosecutrix were present in a 10th day Ceremony held in the house of Phagu Baiga. The applicant slept by the side of the prosecutrix and without her willingness and consent committed rape with her. The prosecutrix is a member of scheduled tribe. On the basis of this information, a complaint has been registered against the applicant.

7. Considering the submissions and the contents of the case-diary, copy of the affidavit produced before the Sessions Court alongwith the application and the copy of the statement of the prosecutrix recorded later on under Section 164 of the Cr.P.C. which is a part of the case-diary, in which she stated that she has lodged a false complaint against the applicant on being instigated by Tilak Ram, brother of the applicant and she also stated that the

applicant has not committed any offence. Taking into consideration this development in the investigation against the applicant, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. He shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the 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 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/-

(Rajendra Chandra Singh Samant)
Judge