

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 287 OF 2017

1. Sait Kumar Bhoi, S/o Vrishabh Bhoi, aged about 50 years, Government Employee, Adivasi Balak Hostel, Sankra (Cook-man)
2. Bhupendra Kumar Bhoi, S/o Sait Kumar Bhoi, aged about 19 years, Both by caste: Sanwra (Scheduled Tribe)
Both R/o Village: Salhejhariya, P.S. Basna, present Address: Ward No.5, Sankra, Police Station: Sankra, Tahsil : Pithoura, District Mahasamund (C.G.)

... Applicants

Versus

State of Chhattisgarh, through Station House Officer, Police Station: Sankra, District Mahasamund (C.G.)

... Non-applicant

For Applicants	:	Mr. G.I. Sharan, Advocate.
For Non-applicant/State	:	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/05/2017

1. The present application has been filed under Section 438 of CrPC for grant of anticipatory bail to the Applicants who are apprehending their arrest in connection with Crime No. 35 of 2017, registered at Police Station- Sankra, District- Mahasamund, for the offence punishable under Sections 376, 312/34 of IPC.
2. Applicant No.1 is the father and Applicant No.2 is his son. Allegation against the present Applicants, as per the prosecution case, is that they along one Upendra Bhoi, who is also the son of Applicant No.1, had forced certain herbs in the private part of the prosecutrix on account of which she met with an abortion. Further, as per the prosecution case, the co-accused Upendra Bhoi was having an affair with the prosecutrix for long and that in between on the pretext of marriage they had maintained physical relationship as well. On account of said physical relationship, the prosecutrix got conceived, which was not acceptable to the present

Applicants and on the pretext of permitting the prosecutrix to marry the co-accused, Upendra Bhoi, they called her to their house and thereafter took her to the jungle where they forced her to put herbs in her private part which resulted in her abortion. Subsequently, it is said that the co-accused Upendra Bhoi also ditched her and refused to continue with that relationship.

3. Learned Counsel for the Applicants submits that so far as the present Applicants are concerned, the only charge which is made out against the present Applicant is that of an offence under Section 312 of IPC. However, from the record it reflects that the abortion, if true, took place in August, 2016 and that the written complaint for the first time was lodged after about more than 6 months i.e. on 24.2.2017 and there is no proper explanation given for the delay in the lodging of the complaint and therefore prima facie it appears to be a case of the Applicants being falsely implicated only for the reason that the Applicants happen to be the father and brother of the co-accused Upendra Bhoi.

4. Having perused the case diary produced by the State Counsel and also on perusal of record, it clearly reflects that the alleged abortion is said to have taken place on 25.8.2016 and the written complaint was lodged after about 6 months i.e., on 24.2.2017 without any justification for the delay caused. In this view, this Court is of the opinion that a prima facie strong case for grant of anticipatory bail is made out.

5. Accordingly, the present application under Section 438 of CrPC is allowed. It is directed that in the event of arrest of the Applicants in connection with Crime No. 35 of 2017, registered at Police Station- Sankra, District- Mahasamund, for the offence punishable under Sections 376, 312/34 of IPC, if each of them 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 they shall 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.

/sharad/

Sd/-
(P. Sam Koshy)
Judge