

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 382 of 2017**

Dr Anil Kumar Henry S/o Late Shri V.K. Henry, Aged About 51 Years
 Director, Christian Mission Hospital, Mungeli, Tehsil & Civil & Revenue
 District Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station City Kotwali,
 Mungeli, Tah. & Distt. Mungeli, Chhattisgarh

---- Respondent

For the Applicant	:	Shri Kishore Bhaduri and Shri Azad Siddique, Advocates.
For the Respondent/State	:	Shri U.K.S. Chandel, P.L.
For the Objector	:	Ms. Nirupama Bajpai, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.11.2017**

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. 219 of 2017, registered at Police Station – City Kotwali, Mungeli, District – Mungeli, Chhattisgarh for the offences punishable under Sections 354 and 354(A) of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is Director of Christian Mission

Hospital, Mungeli and he is a man of reputation. The complainant in this case has lodged a false report against the applicant. The facts are that the complainant had been employed as a Dental Surgeon in Christian Mission Hospital, Mungeli between August, 2016 and April, 2017. The complainant was directed to perform duty as doctor on first call. During that period whenever the complainant was called by the staff nurses to attend any patient on account of indisposition of the said patient, the complainant used to refuse stating that she is not supposed to perform on call duty and this may be intimated to the Higher Authority. A show-cause notice was issued to the complainant on 20.4.2017 and she was placed under suspension. Subsequent to that, the complainant has lodged FIR against the applicant alleging in it that the applicant had on previous occasions engaged with the complainant in indecent conversation and has made indecent proposal of sexual advancement etc. News was also published in the newspaper about the complaint made by the complainant, on the basis of which a committee was constituted under Visakha Guidelines of the Eastern Regional Board of Health Services Society, which conducted an enquiry and has come to a conclusion that the FIR lodged by the complainant is false. A copy of that report is filed as Annexure-A/13. It is further submitted that in the event of the arrest of the applicant he will be subjected to unnecessary harassment and loss of reputation. He is ready to abide by all the conditions imposed for grant of 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. It is submitted that the complainant/victim in this case has filed a written complaint on 20.4.2017 in police station

City Kotwali, Mungeli in which she has categorically stated against the applicant, on the basis of which the offence is made out. Hence, it is prayed that the applicant is not entitled for grant of anticipatory bail.

5. Ms. Nirupama Bajpai, counsel for the Objector submits that the complainant/ victim in this case has lodged FIR on true facts of the case. The applicant is an influential person and all the witnesses in the case are employees of the same hospital who have given statement under the influence of the hospital administration. The so-called Visakha Committee was constituted after lodging of FIR but the complainant did not receive any notice to give her appearance before the said committee and the report submitted by the said committee is one sided and manipulated. It is further submitted that the applicant is not an Indian Citizen and there is likelihood of leaving this Country if he is released on bail and in that case the trial of the case shall be seriously affected. Hence, for these reasons, the application for grant of anticipatory bail may be rejected.

6. Heard counsel for both the parties and perused the case diary and also the documents submitted alongwith the application under Section 438 of the Code of Criminal Procedure.

7. Copies of affidavit given by the employees employed in Christian Mission Hospital, Mungeli were filed alongwith the application in which the concerned have given statement in favour of the applicant. As per the other papers submitted alongwith the application and also present in the case diary, some disciplinary action was initiated in the early part of the day of

20.4.2017. On going through the statement of the complainant under Section 164 of the Cr.P.C., on 20.4.2017 at about 12:30 pm the applicant called her in his chamber and after reprimanding her asked her to leave the job and forced to sign the papers and then after some time the FIR has been lodged in P.S. City Kotwali, Mungeli.

8. Considering all the allegations made by the complainant and looking to the development of things before lodging of FIR, I am of the view that after imposing some stringent conditions the applicant is entitled for grant of anticipatory bail.

9. 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 two local sureties in the like sum to the satisfaction of the concerned Investigating Officer. He has to surrender his passport and 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 them 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.
- (v) that the applicant shall not leave this Country until and unless the investigation/ trial in the case against him is completed.'

10. The applicant shall have the liberty to make a prayer before this Court in case he has to leave this Country for temporary period on account of some specific reasons.

Sd/-

(Rajendra Chandra Singh Samant)
Judge