

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1388 of 2016**

Ashok Kumar Singh Bhadouriya, S/o. Late Narendra Pratap Singh Bhadouriya, aged about 61 years, Occupation- Service, Posted as Block Education Officer, Block- Odagi, R/o. Village- Odagi, P.S. & Tahsil – Odagi, District – Surajpur (C.G.)

----Applicant

Versus

State Of Chhattisgarh, Through : Police Station – AJJAK, Surajpur, District - Surajpur, Chhattisgarh.

---- Respondent

For Applicant	: Dr. N.K. Shukla, Sr. Advocate with Mr. A.N. Pandey, Advocate
For Respondent/State	: Mr. Ashok Swarnakar, Panel Lawyer
For Objector	: Mr. Keshav Prasad Gupta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**12/12/2017**

1. Apprehending arrest in connection with Crime No.17/2016, registered at Police Station – AJJAK, Surajpur, District – Surajpur (C.G.), for offence punishable under Section 376 of the Indian Penal Code and Section 3 (2) (5) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that applicant is innocent and has been falsely implicated in this case. As alleged in the FIR, the date of incident is 06.07.2016, whereas

the FIR was lodged by the prosecutrix on 05.12.2016 after delay of about five months, which is not explained and the history given about the incident is also improbable as the time of incident is about 1.00 PM in the residence of the applicant situated in the campus of Higher Secondary School Odagi, where the students were present in their class. Further the applicant was not posted as BEO on the date of incident, hence, the prosecutrix was not his subordinate for submitting to his wish. Applicant is victim of conspiracy because of his posting in Odagi, was always cause of displeasure to some of the persons. Applicant was placed on suspension vide order dated 12.05.2016 (Annexure A/2) and in his place Mr. Shashi Bhushan Jaiswal was posted on 13.05.2016 vide Annexure A/3. Thereafter, the applicant was reinstated but was posted in another place. Challenging this order, applicant had preferred W.P.(S) No.2368/2016, which was disposed off by order dated 08.07.2016 directing the respondents authorities to order posting of applicant according to the law laid down by this Court in case of Prakash Tiwari Vs. State of C.G. decided on 07.07.2015, in W.P.(S) No.217/2015. That order was not complied with, hence, applicant was constrained to file contempt petition No.345/2016, which was disposed off on 16.08.2016 by this Court issuing direction to the respondents District – Education Officer. Subsequent to that applicant was given posting in Odagi. Hence, this shows that applicant had not been in charge on the date of incident. It is also prayed that applicant has also filed Cr.M.P. No.866/2016 before this Court, in which he has been granted interim relief by this Court, hence, it is prayed that applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that applicant has criminal history and he was also prosecuted earlier for similar offence. Even though, the applicant was under suspension on the date of incident, the place of incident as per allegation is the residence of the applicant and not the office of the applicant. There is sufficient explanation given by the complainant in this case regarding delay in lodging of FIR. Hence, applicant is not entitled for grant of anticipatory bail..
4. Counsel for the objector submits that Section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act clearly bars entertaining any application for anticipatory bail regarding the offence under the provisions of this Act. The argument submitted on behalf of the State has been adopted and prayed that application be rejected.
5. I have heard the learned counsel for the parties and perused the case diary and the documents.
6. The case against the applicant is that the prosecutrix was Superintendent of Girls Hostel in Gharsedi and belongs to tribal community. It is stated that she was called on telephone by applicant in connection with some official work, when she arrived at in the office, applicant was not present then she was called into the residence of the applicant. Thereafter, applicant closed the door and forcefully committed sexual intercourse with the prosecutrix without her consent and willingness. Applicant also threatened the prosecutrix that, if she informs anybody about the incident, then she would suffer dire consequences. It is stated that, she became afraid

due to threats given, although she informed about the incident to her husband, who was also threatened by the applicant with dire consequences. It is alleged that the applicant continued harassing the prosecutrix making demands, thereafter, when demands were not fulfilled, he made his intention clear that he wants to have sexual relationship with the prosecutrix. Thereafter, the written complaint was given on 04.12.2016 on the basis of which, the FIR has been lodged.

7. Considered the submissions and the contents of the case diary. The grounds raised for grant of bail by the applicant seem to have some explanation in the material found in the investigation. Regarding previous prosecution of criminal cases, against the applicant has not been denied by the applicant's side, hence, taking into consideration the material available on the case diary, I am of this view that it is not a fit case where the applicant should be enlarged on anticipatory bail.
8. Accordingly, the bail application filed under Section 438 of Cr.P.C. is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge