

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 91 of 2018**

Agnel Prabhakar Tirkey S/o Nestor Tirkey Aged About 28 Years Caste Uraon, R/o Village Kaikachhar Police Station Jashpur, District Jashpur Chhattigarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Bagicha, District Jashpur Chhattigarh.

---- Respondent

For the Applicant : Shri J.K. Saxena, Advocate.
For the Respondent/State : Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.03.2018**

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. 1 of 2018, registered at Police Station – Bagicha, District – Jashpur, Chhattisgarh for the offences punishable under Section 376 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 prosecutrix in this case is a major lady aged about 28 years at present and the offence as reported, is said to have been committed in the year 2007. Further, according to the details of the FIR itself, it appears that the prosecutrix was a consenting party and also the

FIR was lodged only for the reason that the applicant had refused to marry her. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. 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. FIR was lodged by the prosecutrix on 4.1.2018 stating that in the year 2007 she met with the applicant and he proposed for marriage; thereafter, he established physical relation with her as the marriage was proposed, the prosecutrix did not complaint about it, but on other occasions the applicant continued to have physical relation with the prosecutrix for number of times. Subsequently, the applicant got an appointment in Punjab National Bank at Kawardha and the proposal of marriage was also furthered, however the prosecutrix on 22.9.2017 after confirming with the applicant himself, that he does not intend to marry her, the prosecutrix lodged FIR against the applicant.

7. Considering the submissions and the contents of the case-diary and considering the fact that the prosecutrix is a lady capable of giving consent for sexual intercourse, 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