

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 146 of 2018**

Bhuneshwar Sahu @ Santosh Sahu, son of Bhikham Sahu, aged about 26 years, Caste Teli, R/o. Village Banskot, Police Station Vishrampur, District- Kondagaon (Chhattisgarh).

----Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Vishrampur, District Kondagaon (Chhattisgarh).

---- Respondent

For Applicant	: Mr. Govind Ram Miri, Advocate with Mr. Basant Kaiwartya, Advocate
For Respondent/State	: Mr. Vijay Bhadur Singh, Panel Lawyer.
For Objector	: Mr. Kunal Das, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****01/03/2018**

1. Apprehending arrest in connection with Crime No.120/2017, registered at Police Station – Vishrampur, District – Kondagaon (C.G.) for offence punishable under Sections 376, 506 of IPC and Section 06 of Protection of Children from Sexual Offences Act, 2012, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case as there is no evidence available on record to connect the applicant in the crime in question. According to the entry made in the school register,

which has been obtained by the applicant, the date of birth of the prosecutrix is 01.08.2016 hence, her age, on the date of marriage, was 18 years & 7 months. It has also been submitted that arrange marriage of the applicant and the prosecutrix has taken place on 29.02.2015 and subsequently because of some dispute with the applicant, the prosecutrix left the house of this applicant in the year 2016 and went to reside with her parents, and after sufficient delay, FIR was lodged on 24.12.2017. In between a Caste Society Meeting was also held, in which the prosecutrix has clearly expressed her intention that she wants to divorce the applicant. Thereafter, on the basis of complaint in the Pariwar Kalyan Samaj, Kondagaon, the matter was enquired into and it was found that the prosecutrix has made a false complaint against the applicant, hence no case is made out against this applicant. Therefore, it is prayed that the applicant be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. According to the mark sheet of class 10th seized by police in the investigation the date of birth of prosecutrix is 01.08.1998 and according to which she was minor on the date of incident. Therefore, no case is made out for grant of anticipatory bail.
4. Counsel for the objector submits that at the initial stage the proposal was received from the family of the prosecutrix which was refused. Thereafter, applicant influenced the prosecutrix to put pressure on her family for marriage by stating that he can not live without her. Subsequently, the marriage was performed between the applicant and the prosecutrix and then the prosecutrix was tortured for demand of dowry, on account of which she was

compelled to leave the house of the applicant, by approaching the authority to lodge the FIR she could not succeed and after filing an application in the women Commission of State of Chhattisgarh it was on the direction of the said Commission the FIR has been lodged that is the explanation for the delay in lodging the FIR.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. Allegation in the police case is based only on the mark sheet of 10th class seized by the police which shows that date of birth of prosecutrix was 01.08.1998, other than that the marriage of the prosecutrix with applicant is undisputed and subsequent dispute between the applicant and prosecutrix is also undisputed. The case against the applicant is sufficiently explained according to the submission made above.
7. After considering the totality of the facts and circumstances and the fact that the prosecutrix was a major lady on the date of incident; further it was a case of arrange marriage and it also appears that the cause of dispute between applicant and the prosecutrix had been different for which there are other penal provision under the Indian Penal Code which can take care of the grievance of the prosecutrix, shows that a case is made out for grant of anticipatory bail.
8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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. The applicant 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/her 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