

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 446 of 2017**

Ramkrishna Singh Kushwaha S/o Late Gyan Singh Kushwaha Aged About 57 Years R/o Quarter No. N G- 25, Rajasva Colony, Rampur, Korba, Tahsil And District- Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station- Balco Nagar, Korba, District- Korba, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Goutam Khetrapal, Advocate.
For the Respondent/State	:	Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.02.2018**

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. 113 of 2017, registered at police station – Balco Nagar, Korba, District - Korba, Chhattisgarh for the offence punishable under Section 354 of the Indian Penal Code.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. It is submitted that the applicant is a public servant and presently posted as Assistant Director Horticulture, District Korba and the victim in this case Smt. Laxmi Yadav was posted as Rural Horticulture Development Officer under the authority of the applicant. The victim was habitual to remain absent in the office to perform

her duties without sanction of leave because of which departmental action was proposed by the applicant on 2.9.2016 vide Annexure-A/2. Out of total 150 working days, the victim remained absent for 147 days regarding which the information was sent to the Director of Horticulture vide memo dated 2.12.2016. Later on, the victim joined her services but the applicant being the Superior Authority sent proposal for removal of the victim from her services on 6.5.2017. Consequent to that, a letter of warning was issued to the victim on 8.5.2017 by the applicant. The victim being annoyed due to the action taken by the applicant has lodged false FIR against the applicant on 9.5.2017. It is further submitted that a petition under Section 482 of the Cr.P.C. has been preferred in Cr.M.P. No. 1166 of 2017, in which this Court has been pleased to pass an order of interim relief to the applicant. 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 victim in this case has made direct allegations against the applicant. It is further submitted that a document submitted by the applicant with this application has been verified and according to the report submitted all the documents exist in office records, regarding the complaint and proposals sent by this applicant for taking action against the victim.

5. Heard counsel for both the parties and perused the case diary.

6. The complainant/ victim has alleged that the applicant being a superior officer misused his position and used to touch the victim physically on various occasions and out-raged her modesty, because of which the FIR has been lodged.

7. Taking into consideration all the facts and circumstances of the case

present in the case-diary and the report regarding the documents and the said proposals and intimations with respect to misconduct of the victim, 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. 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 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.'

Sd/-
(Rajendra Chandra Singh Samant)
Judge