

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 195 of 2018**

Harisingh S/o Ramsingh Aged About 19 Years R/o Semramathani, Police Station Kelhari, Tahsil Manendragarh, District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kelhari, Tahsil Manendragarh, District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Respondent

For the Applicant : Shri Anil Gulati, Advocate.
For the Respondent/State : Shri Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.03.2018**

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. 39 of 2017, registered at Police Station – Kelhari, Tehsil Manendragarh, District – Korea, Chhattisgarh for the offences punishable under Sections 354, 354(A)(1), 452 & 306 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case for an added offence under Section 306 of the

IPC. It is submitted that earlier the applicant was prosecuted for the offences under Sections 452, 354 and 354A of the IPC and Section 8 of the POCSO Act for which he was granted bail by the Co-ordinate Bench of this Court in M.Cr.C. No. 5613 of 2017 dated 13.9.2017. During the pendency of the trial against this applicant, the trial Court has passed the order on 21.11.2017 directing that the charge shall be amended for adding the offence under Section 306 of the IPC. The offence under Section 306 of the IPC is non-bailable and punishable up to the imprisonment for 10 years. Hence, if the applicant appears before the said Court he will be arrested and sent to jail. 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. On the same set of facts, the Co-ordinate Bench of this Court has considered and granted regular bail to the applicant and subsequent to that the trial Court has proceeded to amend the charge and add offence under Section 306 of the IPC on the same set of facts. Hence, for these reasons and looking to the apprehension that this applicant is facing, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

7. 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