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**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C.(A) No. 740 of 2017**

Virendra Pandey S/o Shiv Nayaran Pandey, Aged About 22 Years R/o Police Line Urdana, Raigarh, Tahsil And District Raigarh Chhattisgarh, Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station City Kotwali, Raigarh, District Raigarh Chhattisgarh(P.S. Wrongly Mentioned In Impugned Order).

**---- Respondent**


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For the Applicant : Shri Arvind Shrivastava, Advocate.  
For the Respondent/State : Shri Vinod Tekam, P.L.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****24.01.2018**

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. 331 of 2017, registered at Police Station – City Kotwali, Raigarh, District – Raigarh, Chhattisgarh for the offences punishable under Sections 294 and 506B of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 67 of the Information Technology Act, 2000.

3. It is submitted by counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. It is further submitted that if the allegations against the applicant are taken only as the offence under Section 67 of the IT Act and this offence is punishable upto three years of imprisonment which is bailable under Section 77B of the IT Act, hence, the applicant is unnecessarily being harassed by adding the other offences without there being any substance for the same. 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 applicant and other co-accused persons have posted obscene and objectionable messages in social networking site – WhatsApp, through electronic device, the mobile sets. No ground is made out for grant of anticipatory bail. Hence, the applicant is not entitled for grant of bail. It is further submitted that as the offences under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have been registered against this applicant and the prayer under Section 438 of the Cr.P.C. is barred according to the provisions of this Act.

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

6. The case is, that the applicant alongwith other co-accused persons posted obscene and objectionable posts in social networking site WhatsApp. The offence alleged against the applicant appears to be the first offence as there is no report or statement in the case-diary that he has earlier committed any similar offence. The allegation against the applicant is clearly

covered under Section 67 of the IT Act which is a bailable offence under Section 77B of the IT Act and regarding the evidence with respect to the other offences registered against this applicant perused the case-diary and after perusing the same, 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