

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 882 of 2018**

Nikhil Madane, S/o. Prakash Madane, Aged About 27 Years, R/o. NDS 222, Nearby Sub Station BIOM, Kirandul Complex, Kirandul District Dantewada Chhattisgarh.

---Applicant**Versus**

State Of Chhattisgarh, Through : Police Station- Kirandul, District Dantewada, Chhattisgarh.

---- Respondent

For Applicant	: Mr. T.K. Jha, Advocate
For Respondent/State	: Mr. Ashish Shukla, Govt. Advocate.
For Objector	: Mr. Arvind Shrivastava, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****04/09/2018**

1. Apprehending arrest in connection with Crime No.47/2018, registered at Police Station – Kirandul, District – Dantewada (C.G.) for offence punishable under Section 376 of the Indian Penal Code, 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. The fact is this that the prosecutrix, who is a major girl and the applicant developed physical relation with each other on the basis of the consent. As their relation has broken up, therefore, the prosecutrix has leveled totally false allegations against the applicant and no case is made

out under Section 376 of the Indian Penal Code against the applicant. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that looking to the allegations made against this applicant in FIR and the statement given by the prosecutrix in investigation, no case is made out for grant of anticipatory bail.
4. Counsel for the objector adopting the arguments advanced by the State counsel submits that the applicant on the garb of helping the prosecutrix in coaching classes had on the very first occasion administered some intoxicating drug in the name of pain killer and thereafter, took advantage of her and established physical relation with her. Subsequent to that on the pretext of marrying the prosecutrix, applicant established physical relation with her continuously on number of occasions and also pressurized her to obtain divorce from her husband. The prosecutrix tried a simple trick to convince the applicant to marry her, by informing that she is pregnant, but as soon as the applicant came to know that prosecutrix is not pregnant, he has deserted her. Therefore, the applicant is not entitled to be benefited with grant of anticipatory bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. The case of the prosecution is briefly discussed hereinabove, according to which the prosecutrix met with the applicant in coaching classes was allured with promise to marry and then

physical relation was established by the applicant with the prosecutrix on numerous occasions.

7. Considered the submissions made and the contents of the case diary. The case against the applicant rests only on the fact of promise to marry the prosecutrix, whereas, this fact can not be ignored that the prosecutrix herself is married woman and till date she is not a divorcee, otherwise the physical relation between her and the applicant is not denied and disputed. Hence, under these circumstances, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
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 each 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram