

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1020 of 2018**

Babulal Thakur, S/o. Late Chamru Lal Thakur, Aged About 52 Years, R/o.-
Nayapara, Titurdih, Police Station- Mohan Nagar, Durg, Tahsil and District-
Durg, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through- Station House Officer, Police Station-
Mohan Nagar, Durg, District- Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. B.P. Singh, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****18/09/2018**

1. Apprehending arrest in connection with Crime No.251/2018, registered at Police Station – Mohan Nagar, Durg, District – Durg (C.G.) for offence punishable under Section 376, 506, 109 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. According to the allegation made by the complainant in the written complaint, this applicant was not the person, who has raped her and also for the reasons that the FIR has been lodged on 04.07.2018, whereas, the date of incident as mentioned are 09.04.2017 to 15.04.2017,

hence, it is clearly a concocted case. Hence, 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 according to the statement made under Section 164 of Cr.P.C. there are allegation against the applicant that this applicant has attempted to rape the prosecutrix on 23.04.2017 and also this applicant was the facilitator for commission of offence by the main accused person. Hence, the applicant is not entitled to be released on anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. A written complaint was filed by the prosecutrix on 04.07.2018 alleging that on 09.04.2017, co-accused Ghanshyam Thakur by force took her to a house and then raped her. Allegation against this applicant is this that he facilitated for commission of offence and provided the place, where the offence was committed. It is alleged that main accused again raped the prosecutrix on 15.04.2017. Further in the statement under Section 164 of Cr.P.C., the prosecutrix has made allegation against this applicant. Hence, this case.
6. Considered the submissions made and the contents of the case diary. After due consideration on all the material present in the case and looking to the delay in lodging of FIR and the development that has taken place in the statement made by the prosecutrix, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge