

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1083 of 2018**

Manmohan Gopal, S/o Bansgopal, aged about 60 years, R/o. 108, Louis Road, Forest Field Western Australia 6058,

Permanent Address – WZ 294/9, G Block, Harinagar, Jail Road New Delhi.

Present Address: flat No. 3092, Tower No.3, Parker Residency, Sector 61, G.T. Karnal Road, Kundli, Sonipat, Haryana.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Sarkanda, District- Bilaspur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Manoj Paranjpe and Shri Pawan Kesharwani, Advocates.
For the Respondent/State	:	Shri Lav Sharma, P.L.
For the Objector	:	Shri Awadh Tripathi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.09.2018**

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. 675 of 2016, registered at Police Station – Sarkanda, Bilaspur, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 66(C), 67, 67(A) of the Information Technology Act and Section 354(D), 120B read with Section 34 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The complainant in this case is daughter-in-law of the applicant who has falsely implicated the applicant in number of cases. The proceedings in the present matter have been stayed in the High Court whereas, the anticipatory bail has also been granted by this Court in another case registered as Crime No. 594 of 2017. In that case, Hon'ble Supreme Court has stayed the arrest of the applicant until further orders. The FIR lodged in this case makes the allegation only against the husband of the complainant and the applicant was not named. In the later on development, the name of the applicant has been arrayed as one of the accused only for the reason that his mail ID was used to hack the mail ID of the complainant for sending obscene messages, which itself is not proved that it was the applicant who has done 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 mail ID of the applicant was used by which the social networking, chat of the complainant was hacked and obscene/ objectionable/defamatory messages were sent to the same. The location of the Internet ID has also been found to be the place where the applicant resides. Similarly, the mobile number of the applicant was also used in the commission of offence. Hence, for these reasons, no case is made out for grant of anticipatory bail to the applicant.

5. Learned counsel for the objector submits that the application for grant

of anticipatory bail filed by the applicant and one another in M.Cr.C.(A) No.971 of 2017 has been rejected by this Court vide order dated 25.1.2018. Opposing the submissions made by counsel for the applicant, it is submitted that the investigation has revealed the facts of involvement of the applicant, hence, non-mention of his name in the FIR itself does not exonerate him from the allegation that the messages sent through Internet ID and mobile number of the applicant are obscene, objectionable and defamatory from the result of the investigation. It has appeared that the applicant is the main culprit in this case because of which, he was not entitled for grant of anticipatory bail.

6. In reply, learned counsel for the applicant submit that there is no direct evidence against the applicant being involved in the commission of offence and it has been repeated that in the FIR the name of the applicant has not been mentioned. Hence, for these reasons, the applicant is entitled for grant of anticipatory bail.

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

8. The case against the applicant and others is that the mail ID of complainant - Shilpi Shrivastava has been hacked and the same has been used for sending obscene, objectionable and defamatory messages. Similarly, WhatsApp social media also used by the applicant and others for sending such obscene and degrading messages so as to defame the complainant, regarding which she has lodged the FIR. After completion of investigation, the charge-sheet has been filed in which the applicant is shown absconding. A report of expert is attached in the case-diary which

shows that the Internet ID of the applicant was used for hacking the gmail account of the complainant, to fish-out information from her account. Hence, there appears to be *prima facie* evidence available against the applicant. It is a case of character assassination through an electronic mode which has to be viewed seriously. Hence, for these reasons, I do not feel inclined to allow the application.

9. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge