

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1158 of 2018**

Mohammed Adam Memon, S/o. Unis Memon, Aged About 38 Years, R/o. In Front Of Ravi Das Mandir, Near Bharat Rickshaw Garage, Talapara, Bilaspur, District Bilaspur, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Amit Singh, Advocate

For Respondent/State : Mr. Anant Bajpai, P.L.

The victim/prosecutrix present in person before the Court.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****04/10/2018**

1. Apprehending arrest in connection with Crime No.607/2018, registered at Police Station – Civil Lines, Bilaspur, District – Bilaspur (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. It is submitted that the prosecutrix is major lady of age more than 30 years and it was by her consent, this applicant had physical relation with her and both were in live-in relationship for sometime. The prosecutrix has filed an affidavit before the Court below making submission

about the live-in-relationship, which has not been considered at all. Hence, clearly it is not a case of commission of offence of rape. 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 under Section 161 and 164 of Cr.P.C., there is direct allegation present against the applicant for commission of offence of rape. Hence, the applicant is not entitled to be released on bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. The FIR has been lodged by the prosecutrix alleging that on 16.06.2018 at about 1.30 in the afternoon, the applicant came to her house and by force had physical relation with her without her consent and willingness.
6. Considered the submissions made and the contents of the case diary. After considering all the material present in the case diary, the order of the Court below mentions about the submissions made by the applicant regarding live-in relationship, copy of the affidavit sworn by the prosecutrix before the Notary Public is also filed and the prosecutrix herself is also present before the Court making statement of no objection in grant of anticipatory bail, hence, after due consideration, 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