

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 664 of 2017

1. Samual James S/o Late Shri Walis James, Aged About 66 Years, R/o Jarhabhatha, Near Mandir Chowk, Bilaspur, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh, Chhattisgarh
2. Sourabh @ Sunny James S/o Shri Samual James, Aged About 26 Years, R/o Jarhabhatha, Near Mandir Chowk, Bilaspur, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh, Chhattisgarh

---- Non-applicant

For Applicants – Shri Goutam Khetrapal and Shri Rishi Rahul Soni, Advocates.
For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

13-04-2018

1. Apprehending arrest in connection with Crime No.551/16, registered at Police Station – Civil Line, Bilaspur, District Bilaspur, Chhattisgarh for offence punishable under Section 354-A, B, D, 506-B, 294, 323, 34, 376 of the IPC and Section 7 & 8 of the Protection of Children from Sexual Offences Act 2012, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. No case is made out against them according to the case under investigation. Applicant No.1 is old aged person and suffering from various ailments, whereas, applicant No.2 was not present on the spot at the alleged time of commission of offence.
3. A complaint was made by Neetu Harve and on that basis the FIR has been registered against Tapan Goswami and others registering the offence under Section 450, 354, 376, 509, 34 of the IPC, hence, the complainant/victim in this case has been made use by the accused persons in that case to falsely

implicate the applicants. A complaint was also made by Smt. Kiran James, wife of applicant No.1 to Superintendent of Police to make a fair enquiry of the case on 12-9-2016. Hence, it is prayed that the applicants may be granted anticipatory bail.

4. Learned counsel for the non-applicant/State opposes the application and submits that no case is made out for grant of anticipatory bail as direct allegation has been made by the victim in this case against both the applicants. Hence, the application may be rejected.

5. I have heard the learned counsel for the parties and perused the case diary.

6. The victim in this case has lodged the FIR on 11-09-2016 alleging that on the same day at about 7.30 p.m. when she had been to a shop for making some purchase along with her sister, applicant No.2 caught hold of her sister and attempted to rape her and when the complainant tried to intervene, she was pushed into the bush, in the meanwhile, applicant No.2 disrobed the sister of the complainant and was outraging her modesty by touching her private parts, somehow the complainant and her sister/the victim made escape. While they were running away, applicant No.2 had threatened them of dire consequences.

7. Considered on the submissions made and contents of the case diary.

8. Name of applicant No.1 has not appeared in the written complaint and in the FIR that has been lodged in this case. Hence, I am of this view that case is made out for grant of anticipatory bail in favour of applicant No.1. But there being presence of direct allegation of the complainant and other witnesses against applicant No.2 from the initial stage, I am of this view that applicant No.2 does not deserve to be benefited with grant of anticipatory bail.

9. Accordingly, the prayer for grant of anticipatory bail to applicant No.2 is

rejected and the prayer made by applicant No.1 for grant of anticipatory bail is allowed. It is directed that in the event of arrest of the applicant No.1 Samuel James 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. Applicant No.1 shall also abide by the following conditions :

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that he 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 he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge