

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1231 of 2018**

Tibbat Lal Giri S/o Nohari Ram Giri Aged About 50 Years R/o Village Sayar (Bhudumar) Now At Village Kedma Outpost Kedma, P. S. Udaypur, Distt. Surguja Chhattisgarh

----Applicant**Versus**

State Of Chhattisgarh, Through The Station House Officer, Outpost Kedma, P. S. Udaypur, Distt. Surguja Chhattisgarh

---- Respondent

For Applicant : Mr. Dev Ashish Biswas, Advocate

For Respondent/State : Mr. N.K. Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****22/10/2018**

1. Apprehending arrest in connection with Crime No.80/2012, registered at Police Station – Out Post – Kedma, Udaypur, District – Sarguja (C.G.) for offence punishable under Section 376 of the Indian Penal Code and Section 3 (1-12) SC & ST (Prevention of Atrocities) Act, 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 because of the dispute regarding property and it was a outcome of that dispute the mother of the applicant was murdered by the relatives of the prosecutrix regarding which there had been a prosecution against them. Hence, it is a clear case that out of revenge, this applicant has been falsely made accused in this case. Charge-sheet has

been filed in this case and the applicant is keen to appear and contest the case against him. Therefore, it is prayed 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 evidence present in the case against the applicant and for the reasons that the prosecutrix in this case was merely age of 9 years at the time of incident, hence, no case is made out for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. The incident is of the year 2012. It is alleged that on the date of incident, this applicant allured the prosecutrix of age 9 years and took her to a place in jungle, where he committed the offence of rape.
6. The prosecutrix has given statement under Section 161 of Cr.P.C. against the applicant and the medical report is also positive in this respect.
7. After due consideration on the evidence present in the case against the applicant and for the reason that the applicant had been absconding through out, this Court is not 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 rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge