

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 835 of 2017**

Mohammad Mosannik S/o Qayamuddin Aged About 28 Years R/o Kusmi,
P.S. And Tahsil Kusmi, District Balrampur Chhattisgarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station Kusmi, District Balrampur
Chhattisgarh , Chhattisgarh.

---- Respondent

For the Applicant : Shri Arun Kochar, Advocate.
For the Respondent/State : Shri Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.10.2018**

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. 63 of 2017, registered at Police Station – Kusmi, District – Balrampur, Chhattisgarh under Sections 506 and 376(2)(dha) of the Indian Penal Code and Sections 5 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The fact is that the applicant and the prosecutrix had an affair and both married each other. Subsequently,

because of some dispute between them, the applicant has divorced the prosecutrix in accordance with the Muslim Personal Law and lateron, a false FIR has been lodged against the applicant making various allegations which appears to be totally improbable and unbelievable. Reliance has been placed on the judgments of Supreme Court in **Uday vs. State of Karnataka** reported in **2003 SCC (Cri) 775**, **Deepak Gulati vs. State of Haryana** reported in **AIR 2013 SC 2071**. Learned counsel also relied on the judgment of this High Court in the case of **Praveen Kumar Sahu vs. State of Chhattisgarh** reported in **2007(2) C.G.L.J. 152** and in the judgment of High Court of Delhi in **Rohit Chauhan vs. State NCT of Delhi** in **Bail Application No. 311 of 2013** dated **22.5.2013**. 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 prosecutrix in this case has made serious allegations against the applicant, hence, looking to the evidence present, no case is made out for grant of anticipatory bail to the applicant.

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

6. The prosecutrix had lodged FIR on 6.8.2017 alleging that, on the date of first incident i.e. 15.8.2013 when she was minor, the applicant forced his entry into the house where she was residing and by putting her under threat committed the offence of rape with her. Subsequent to that, the applicant continued to exploit the prosecutrix on number of occasions until 9.7.2017 and then he also promised to marry her. In the meanwhile, the applicant

constantly kept the prosecutrix under threat in various manners. Because of this physical assault, the prosecutrix became pregnant but the applicant got her pregnancy aborted and the prosecutrix became desperate for marriage. The applicant performed marriage according to Muslim Law on 12.7.2017, and subsequent to that, he divorced the prosecutrix on 2.8.2017 in accordance with Muslim Law. Hence, the FIR has been lodged stating that the physical submission of the prosecutrix was obtained by the applicant by deceit and misconception of fact. Hence, this case.

7. Considered the material present in the case-diary. After going through the statement given by the prosecutrix under Sections 161 and 164 of the Cr.P.C., I am of the considered opinion that no extra-ordinary case is made out for grant of anticipatory bail to the applicant.

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

Sd/-
(Rajendra Chandra Singh Samant)
Judge