

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 944 of 2017**

Shiv Kumar Namdev S/o Late Shatrughan Lal, Aged About 72 Years
R/o Village- Bodla, Police Station Bodla, District Kabirdham,
Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Bodla, District Kabirdham, Chhattisgarh., Chhattisgarh
2. Khusbhu Banjare, W/o Suraj Banjare, Aged About 28 Years R/o Ward No. 6, Bodla, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh.

---- Respondents

For the Applicant	:	Shri Rajeev Shrivastava, Advocate.
For the Respondent/State	:	Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.04.2018**

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. 131 of 2017, registered at Police Station – Bodla, District – Kabirdham, Chhattisgarh for the offences punishable under Section 354 of the Indian Penal Code, Section 3(1)(11) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 7 and 8 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 applicant is aged about 72 years and he is suffering from old-age ailments. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. It is submitted that in fact on the date of incident the victim in this case was stealing some articles from the shop of this applicant on which this applicant had scolded her. Learned counsel for the applicant has placed reliance on the judgment of the Supreme Court in the case of **Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and Anr.** reported in **2018 SCC Online SC 243**. 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 there is clear allegation against this applicant in the statement given by the witnesses and by the victim in this case. Hence, 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. Certified copy of some affidavits have been filed alongwith the application. The same were filed before the Sessions Court alongwith the prayer made under Section 438 of the Cr.P.C., in which it is stated that the applicant has committed no offence and the victim in this case was caught stealing in the shop of the applicant is the fact. The FIR has been lodged by the mother of the victim on 28.9.2017 at 22:30 pm stating that on the same

day at about 17:05 hrs, the applicant called the victim aged about 8 ½ years inside the shop and after bolting from inside, he undressed the victim and outraged her modesty by touching her body parts, and when the victim raised alarm, the applicant allured her by giving some money and some articles from the shop. On enquiry made by the mother of the victim, she disclosed about the incident. Hence, this case.

7. At present, there is a direct statement of the victim and other witnesses against this applicant and the victim had made a similar statement under Section 164 of the Cr.P.C. against this applicant further there is prompt lodging of FIR. Hence, looking to the evidence that has been collected in this case so far, I am of this view that no case is made out for grant of anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge