

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 983 of 2017

- Manjar Ali S/o Sayed Masud Ali, Aged about 26 Years, R/o Nayapara, Sirgitti, Tahsil & District Bilaspur (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh Through the Station House Officer, Police Station – Sirgitti, District Bilaspur (Chhattisgarh)

---- Non-applicant

For Applicant	:	Mr. Vinod Tekam, Advocate.
For the State/Non-applicant	:	Mr. Vijay Bahadur Singh, P.L.
For Objector	:	Mr. Atanu Ghosh, Advocate

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

02/02/2018

1. Apprehending arrest in connection with Crime No.174/2017 registered at Police Station Sirgitti, District Bilaspur for the offence punishable under Section 376 of the IPC and Sections 3 & 12 of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, the applicant has filed this application under Section 438 of the Cr.P.C. for grant of anticipatory bail.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The applicant and the prosecutrix had a love affair because of which the prosecutrix has willfully submitted for physical relationship with the applicant. Prosecutrix has been major aged about 18 years since the relationship started and it is submitted that the prosecutrix is habitual in making

complaints to the police, in support of which documents have been filed. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

3. On the other hand, learned State counsel opposes the instant bail application and submitted that the prosecutrix has clearly given statement making allegations about the offence against the applicant, therefore, the applicant is not entitled for anticipatory bail.
4. Learned counsel for the objector by adopting the arguments submitted by the State counsel submits that this applicant had preferred a petition under Section 482 of Cr.P.C. and the said Cr.M.P. No. 1426 of 2017 was decided on 03-01-2018, in which it was held that on the basis of affidavit submitted by the prosecutrix that she appears to be minor when the incident of physical relation between the applicant and the prosecutrix initiated. On this ground, the applicant is not entitled for anticipatory bail.
5. Heard both the parties and perused the case diary.
6. FIR was lodged by the prosecutrix on 28-05-2017 alleging that since 4 years prior to the date of lodging FIR, the applicant allured her with promise to marry her and established physical relationship with her subsequently, he denied marrying her for the reason that she belongs to Scheduled Caste. Hence, this application.
7. Learned State counsel opposes the reliance placed in the judgment of this Court in **Praveen Kumar Sahu vs. State of Chhattisgarh** reported in **2007 (1) Crimes 452**, in which it was held that if the offence committed was not with the reason that she belongs to Scheduled Tribe or Scheduled Caste, the bar under Section 18 of the SC ST (Atrocities) Act shall not be applicable. In this case, when the

incident initiated, the caste of the prosecutrix had not been a matter of concern, as it appears from the contents of the case. Hence for this reason, the application under Section 438 of the Cr.P.C. appears to be entertainable.

8. Taking into consideration all the material available on record, I am of the considered view that the applicant should be benefited for grant of anticipatory bail.
9. Accordingly, the anticipatory bail application is allowed and 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge