

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1095 of 2017**

Ritesh Kurre S/o Gopal Swaroop Aged About 19 Years R/o Village Murki, Police Station Dadhi, Tehsil And District Bemetara, Chhattisgarh. Wrongly Mentioned As Through Gopal Swaroop Kurre S/o Kishanlal Kurre, Aged About Years, R/o Village Murki, Police Station Dadhi, Tehsil And District Bemetara, Chhattisgarh., Chhattisgarh

----Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station-Dadhi, District Bemetara, Chhattisgarh., Chhattisgarh

---- Respondent

For Applicant	: Mr. V.C. Ottalwar, Advocate
For Respondent/State	: Mr. Aaditya Sharma, P.L. .

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****02/02/2018**

1. Apprehending arrest in connection with Crime No.82/2017, registered at Police Station – Dadhi, District – Bemetara (C.G.) for offence punishable under Section 376 of the Indian Penal Code and Section 5 (घ) of Protection of Children from Sexual Offences Act, 2012, 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. Prosecutrix in this case was above 18 years on the date of incident, applicant and prosecutrix both have married and are still living together, hence,

no case is made out against this applicant. Therefore, it is prayed that the applicant be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that on the date of incident, the prosecutrix was below age of 18 years, hence only for this reason, the offence registered against this applicant is supported with sufficient evidence, 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. According to the FIR lodged on 09.03.2017 a minor prosecutrix eloped with this applicant and while staying away from their respective residence, applicant and prosecutrix had physical relationship. It is alleged that the age of the prosecutrix on the date and time of the incident, was below 18 years, hence act of the applicant amounts to offence of rape.
6. Considered the submissions made and the contents of the case diary. Perusing the case diary and specifically the statement under Section 164 of Cr.P.C., this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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 applicants shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram