

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1128 of 2017

- Hatim Qadri S/o Suleman Khan, Aged About 48 Years (wrongly mentioned as 40 years in bail rejection order), R/o Village and Police Station Syaang, Tahsil and District Korba, Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Charcha, Civil and Revenue District Koriya, Chhattisgarh., Chhattisgarh

---- Non-applicant

For Applicant – Shri Adil Minhaj, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

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

07-02-2018

1. Apprehending arrest in connection with Crime No.209/2017, registered at Police Station – Charcha, District Koriya, Chhattisgarh for offence punishable under Section 363, 366, 368, 376, 342, 506, 323, 193, 196, 420 & 347 of the IPC and Section 3, 4, 5(n), 6 of POCSO Act, 2012 and Section 3(1) (xii) & 3(2)(v) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act 1989 (in short 'the SC/ST 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. The applicant is a priest (मौलाना) and he was approached by main accused Niyamatullah and the prosecutrix asking him to perform their marriage. The applicant satisfied himself on the documents shown by the main accused and the prosecutrix, that the prosecutrix was adult on the basis of Aadhar Card, affidavit and other documents and then he performed the *nikah* (marriage) of the main accused and the prosecutrix. No case is made out against this applicant. Co-accused persons in this case have been granted regular bail. Hence, it is prayed that the applicant may be

benefited with grant of anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application and the submission made. It is submitted that there is clear statement of the prosecutrix that she was forced to marry the main accused person in this case in presence of this applicant. Anticipatory bail is barred under the provision of Section 18 of the SC/ST Act. Hence, he is not entitled for grant of anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary.

5. According to the case against this applicant and others, the prosecutrix is minor of age 17 years, she eloped with main accused Niyamatullah on 09-01-2017 and she stayed with the main accused for 4½ months in different places. In between, this applicant was approached who is a muslim priest and in his presence the *nikah* (marriage) of the main accused and the prosecutrix was performed. Subsequent to that, a complaint was lodged by the prosecutrix, on the basis of which, the offence have been registered against this applicant.

6. Considered on the submissions made and contents of the case diary.

7. On perusing the diary statements, the statement of the witnesses show the role played by this applicant. Further, it appears that the prosecutrix is a member of Scheduled Tribes, but it does not appear that the role played by this applicant can be taken as commission of any crime under the provision of SC/ST Act, hence bar under Section 18 of the SC/ST Act shall not be applicable in this case. After considering on that and the entire material in the case diary, I am of this view that the applicant deserves to be benefited with grant of anticipatory bail in the present matter.

8. Accordingly, the anticipatory bail application is allowed. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge