

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1531 of 2018**

Sunil Chouhan S/o Shivcharan Chouhan Aged About 18 Years R/o Banwari Side, Police Station- Banki Mongra, Tahsil- Katghora, District- Korba, Chhattisgarh., District : Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station- Banki Mongra, District- Korba, Chhattisgarh., District : Korba, Chhattisgarh.

---- Respondent

For the Applicant : Shri S.R.J. Jaiswal, Advocate.
For the Respondent/State : Shri Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****10.12.2018**

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. 196 of 2018, registered at Police Station – Banki Mongra, District – Korba, Chhattisgarh for the offences punishable under Section 342, 354(d) and 509 of the Indian Penal Code and Section 12 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. According to the contents of FIR, no offence

is made out under Sections 342, 354(d) and 509 of the Indian Penal Code and Section 12 of the POCSO Act. The fact is that the applicant and the victim were intimate friends but the parents of the victim have compelled her to lodge false FIR. Hence, it is prayed that this applicant may also 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 looking to the contents of the complaint against the applicant 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 victim has given a written complaint alleging that the applicant used to follow and talk with her, expressing his love for the complainant. It is alleged that on 3.10.2018, the applicant called the prosecutrix to one open house where somebody bolted the door from outside, thereafter, the applicant threatened her that if she does not submit to his wishes he will defame her and also kill her.

7. The offence under Sections 342, 354D and 509 of the IPC are bailable in nature. The only non-bailable offence is under Section 12 of the POCSO Act which is a provision of offence of an additional enactment because of which, the applicant has apprehension. Hence, for these reasons, I am of the opinion that this is a fit case for grant of anticipatory bail to the applicant.

8. 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 them 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