

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 116 of 2019**

Chaman Rajwade S/o Shiv Prasad Aged About 42 Years R/o Village Pachira, Police Station And Tahsil Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Manoj Paranjpe, Advocate.
For the Respondent/State : Shri Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.03.2019**

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. 362 of 2018, registered at Police Station Surajpur, District Surajpur, Chhattisgarh for the offence punishable under Section 376 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution.

According to the FIR lodged, the date of incident is 17.9.2018 whereas, the FIR has been lodged on 24.9.2018 i.e. after delay of 7 days which shows due deliberation and concoction. The applicant and the complainant had some dispute because of which, he filed a complaint on 15.9.2018. Thereafter, on 16.9.2018 a complaint was lodged alleging commission of offence of outraging modesty. On the alleged date of commission of offence, the applicant was present on duty which is reflected from the entries in duty register as the applicant is driver in Police Department. The delay in lodging FIR has not been explained by the prosecutrix and there are other witnesses to make a statement that the applicant was present on duty. The applicant is a Government Servant and he has not committed the alleged commission of offence. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that in the FIR lodged, the prosecutrix has given explanation that because of bashfulness she could not come forward to lodge FIR, therefore, the delay has been explained. 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. On perusal of the case-diary, it has appeared that the evidence has been collected in the investigation to show that the applicant was present on duty at the time of alleged incident and in further investigation, the allegation made by the complainant may be established, on the ground of plea of *alibi*

of the applicant which finds some support in the case-diary, I am of the opinion that the present is a fit case where the applicant is entitled to be released on anticipatory bail.

7. 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