

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 107 of 2019**

Nitesh Kumar Yadav S/o Shri Jagdish Yadav Aged About 23 Years R/o Village Trikunda, P.S. Trikunda, District Balrampur-Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station Trikunda, District Balrampur-Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Neeraj Kumar Mehta, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.02.2019**

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. 1 of 2019, registered at Police Station – Trikunda, District Balrampur-Ramanujanj, Chhattisgarh for the offences punishable under Sections 376 and 506(B) of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The father of the prosecutrix had been pressurizing the applicant and his father for the purpose of getting married

his daughter/ the prosecutrix with this applicant regarding which, a social meeting was held and the Sarpanch and other Panchas have passed a resolution in favour of the applicant. The applicant himself has filed a complaint in police station Trikunda on 27.12.2018 that he is being blackmailed and threatened to marry the prosecutrix which is received in police station Trikunda. Father of the applicant has also filed a complaint in the same police station making similar complaint which was received and no action was taken on that. On the other hand, according to the FIR lodged, date of incident is alleged to be 20.12.2018 whereas, written complaint was given on 31.12.2018 and the FIR has been lodged on 1.1.2019 which clearly shows concoction. 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 according to the statement of the prosecutrix, 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 prosecutrix has alleged that on 20.12.2018, this applicant on pretext of marrying the prosecutrix, by using force, had sexual intercourse with her and thereafter, refused to marry her. The examining doctor has not given any opinion about the offence of rape and that the age of the prosecutrix is also shown to be 20 years.

7. Considered the complaints that have been given from the applicant's side to the police and there is seal of receipt of the same which were antedated to the date on which the complaint was filed by the prosecutrix. Hence, under these circumstances, I am of the considered view that the applicant deserves to be released on anticipatory bail.

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