

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 179 of 2019**

Shivshankar S/o Rupdhar Chouhan Aged About 23 Years Caste Gada,
Occupation Pvt. Job, R/o Village Tarpali, P. S. Chakradharnagar, District
Raigarh Chhattigarh, District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Chakradharnagar, District Raigarh Chhattigarh, District : Raigarh,
Chhattisgarh.

---- Respondent

For the Applicant : Shri Manoj Kumar Jaiswal, Advocate.
For the Respondent/State : Shri Rahim Ubwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****18.03.2019**

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. 476 of 2018, registered at Police Station Chakradhanagar, District Raigarh, Chhattisgarh for the offence punishable under Sections 376 and 506 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. The prosecutrix in this case is a major lady aged about 28 years and she had

always been a consenting party. The applicant and the prosecutrix both are having affair since 2016. Only for the reason that the applicant has refused to marry her, she has firstly lodged FIR on 7.6.2018 on the basis of which, he has been prosecuted and released on bail in that case. On the basis of the subsequent events, this FIR has been lodged which clearly shows that it was a matter of consent and only because the applicant has taken some money of the prosecutrix without her consent, the false allegation has been made against him. 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 the prosecutrix has made a clear statement that in the incident dated 19.12.2018 she was ravished by the applicant without her willingness and consent. 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. According to the FIR lodged, the applicant and the prosecutrix both had love affair since 2016 and then the applicant continued exploiting her sexually about two years. When the prosecutrix demanded for marriage, the applicant refused to marry her because of which, the first FIR was lodged. In that case, the applicant was arrested and then he was released on bail by the Court below. After his release, the applicant came to the house of the prosecutrix on 19.12.2018 and had forceful physical relation with her without her consent and then he also stayed for night in her house. In the morning,

the prosecutrix found that the applicant had left the house and has taken Rs.5,000/- from her possession without her consent. Therefore, the FIR has been lodged.

7. After considering the entire material present in the case-diary, I feel inclined to grant 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