

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 350 of 2019**

Kamal Sidar, S/o. Shri Pitamber Sidar, Aged About 25 Years, By Caste - Gond, R/o. Village Puranibasti, Thana and Tahsil Patthalgaon, Civil and Revenue District - Jashpur Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station - Patthalgaon, Civil and Revenue District - Jashpur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sunil Sahu, Advocate
For Respondent	: Mr. Aadil Minhaz, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****27/03/2019**

1. Apprehending arrest in connection with Crime No.08/2019, registered at Police Station – Patthalgaon, District – Jashpur (C.G.) for offence punishable under Section 376 of the Indian Penal Code and Section 4, 6 of Protection of Children's from Sexual Offences Act, 2012, 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. No case is made out against the applicant on the basis of the material present in the case diary. The prosecutrix was major on the date of incident and she was a consenting party. The prosecutrix has also filed an affidavit by making statement on oath that she does not want to prosecute this applicant. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that on the date of first incident on 13.02.2017, the prosecutrix was minor as her date of birth according to the investigation made is 14.09.1999, therefore, no case is made out for grant of anticipatory bail. However, it is submitted that affidavit given by the prosecutrix has been verified, which has been found true, in which she has made statement that she does not want to prosecute the applicant.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged, the applicant on the pretext of marrying the prosecutrix established physical relation with her from 13.02.2017, which continued for almost two years and FIR was lodged on 25.01.2019 by the prosecutrix that she was sexually exploited by the applicant. Hence, this case.
6. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary and also considering the statement on affidavit given by the prosecutrix, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram