

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 432 of 2019**

Aakash Dutta Mishra, S/o. Mahesh Mishra, Aged About 32 Years, R/o. Sardar Patel Ward, Old Bus Stand, Mungeli, Police Station Mungeli, District Mungeli Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : Police Station Incharge Mungeli, District Mungeli Chhattisgarh.

---- Respondent**AND****M.CR.C.(A). No. 442 of 2019**

Aakash Dutta Mishra, S/o. Mahesh Mishra, Aged About 32 Years, R/o. Sardar Patel Ward, Old Bus Stand, Mungeli, Police Station Mungeli, District Mungeli Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : Police Station Incharge Mungeli, District Mungeli Chhattisgarh.

---- Respondent

For Applicant	: Mr. Akash Shrivastava, Advocate
For Respondent/State	: Mr. Rahim Ubawani, Panel Lawyer

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

- Both the bail applications are heard and decided together by this common order as they are arising out of similar type of incident.

2. Apprehending arrest in connection with Crime No.134/2019 & Crime No.135/2019, both registered at Police Station – Mungeli, District – Mungeli (C.G.) for offence punishable under Section 354, 506, 509 of the Indian Penal Code and Section 66 (D)/66(3) of Information Technology Act, the applicant has preferred these applications for grant of anticipatory bail.
3. 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 regarding the commission of non-bailable offence. According to the contents of the FIR in both the cases, the allegation is only this that this applicant made some indecent comments for the complainants, which does not amount to commission of an offence under Section 354 of I.P.C. and at the most it would be the offence under Section 354(a) of I.P.C., which is bailable in nature. Rest of the offences registered against the applicant is bailable. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.
4. Per contra learned State counsel opposes the applications for grant of bail and the submissions made in this respect. It is submitted that complainants in both the cases are police constables and this applicant had made comments and obscene gesture etc. for them, therefore, he may be threat to the society, hence, both the applications be rejected.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

6. The story of the prosecution in both the cases is same that the applicant used to visit the office of the complainants in both the cases and used to make indecent comments about their dress and used to make obscene gesture, which were objected by the complainants in both the cases. In the meanwhile, the applicant has taking advantage of his acquaintance with the complainants has recorded some events that had taken place during that time and the same were also published and circulated. Hence, this case.
7. Considered the submissions made and the contents of the case diary. Considered on the entire material present in the case diary, the ingredients of commission of offence under Section 354 of I.P.C. are not present and on the contrary, it appears to be a offence under Section 354(a) of I.P.C., which is bailable in nature, hence for this reason, it appears that there is apprehension of arrest, therefore, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
8. Accordingly, both the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. 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