

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 500 of 2019**

Hemendra Bahadur Chandra S/o Dwarika Prasad Chandra Aged About 28 Years Caste Chandranahu, R/o Village Sukhda, Police Station And Tahsil Dabhra, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Out Post Faguram Police Sation Dabhara, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh.

---- Respondent

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.04.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the second bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn in M.Cr.C.(A) No.305 of 2019 vide order dated 12.3.2019. The applicant is apprehending arrest in connection with Crime No. 51 of 2019, registered at Outpost Faguram, Police Station Dabhara, District Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 376, 498A and 109 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 applicant had been in affair with the prosecutrix for almost about 4 years and thereafter, the applicant has also married with the prosecutrix regarding which, one *ikrarnama* was executed before the notary at village Sukhda. Copy of the *ikrarnama* was attached alongwith the application. The applicant is still willing to have the prosecutrix as his wife. 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 this applicant has exploited the prosecutrix sexually and when she became pregnant he has refused to marry her. 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 aged about 21 years both had an affair of about 4 years; during this period they had physical relation and on account of which, the prosecutrix became pregnant. It is alleged that this applicant refused to marry the prosecutrix and placed a condition that in case the prosecutrix gets her pregnancy aborted he will marry her. The prosecutrix under this pressure got her pregnancy aborted, but then the applicant totally refused to marry her. Hence, this case.

7. Considered the entire material present in the case-diary and the submissions made by counsel for the applicant that the applicant is still willing to have the prosecutrix as his wife, therefore, I am of this opinion that conditional anticipatory bail in this case should be granted.

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.'

This bail shall remain effective for a period of six months. When the applicant performs the marriage with the prosecutrix, then he will have the liberty to make prayer for making the order absolute.

Sd/-

(Rajendra Chandra Singh Samant)
Judge