

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 495 of 2019**

Hukaleshwar Sahu S/o Maheshwar Prasad Sahu Aged About 21 Years R/o Tegnachhar, Police Station Saliha, District- Baloda Bazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhatapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chattisgarh Through Station House Officer, Police Station Saliha, Civil And Revenue District- Baloda-Bazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri B.L. Sahu, Advocate.
For the Respondent/State : Shri I. Lakra, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.05.2019**

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. 113 of 2018, registered at Police Station – Saliha, District – Baloda Bazar, Chhattisgarh for the offence punishable under Sections 363, 366 and 376/ 34 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 and capable to give consent. The relation between the applicant and the prosecutrix was based on consent. A false FIR has been lodged only for the reason that the applicant refused to marry the prosecutrix. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix is a member of Scheduled Tribe/ Scheduled Caste and this applicant has exploited her sexually on pretext of marrying 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. The prosecutrix has filed a written complaint on 28.12.2018 in police station stating that on 1.5.2018, she went with the applicant on his call to Pune where the applicant performed a false marriage with her and then exploited her sexually on numerous occasions. Later on, the father of the applicant called both of them to Baloda Bazar, after which the applicant has deserted her.

7. After considering all the facts and circumstances of the case, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of 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. He 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 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