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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 507 of 2019**

Smt. Lalita Jaiswal W/o Devkant Aged About 36 Years R/o Mayapur,
Chandini Chowk P. S. And Tahsil Ambikapur, District Surguja Chhattisgarh,
District : Surguja (Ambikapur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer P. S. Ambikapur,
District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Jitendra Shrivastava, Advocate.
For the Respondent/State	:	Smt. Smita Jha, P.L.
For the Objector	:	Shri Vivek Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.05.2019**

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. 645 of 2018, registered at Police Station Ambikapur, District Surguja, Chhattisgarh for the offence punishable under Sections 376(क), 376(kha), 376(2)(द), 34 of the Indian Penal Code, Sections 5(th), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 5-1 of the Immoral Traffic (Prevention) Act, 1956.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No FIR was lodged by the parents of the girls concerned. The parents and both the girls are present before the Court to make a statement that they have no objection for grant of anticipatory bail to the applicant, although, there is statement of one victim against this applicant under Section 164 of the Cr.P.C. but the victim herself says that she never went to the Court of Magistrate, First Class, to give any statement. Apart from that, her statement is not supported by the medical evidence because the medico-legal report shows that no injury was found on the private parts of the minor girl, which is suggestive that no sexual offence was committed with the girl. Apart from that, the applicant herself is suffering from terminal illness i.e. cancer and she is continuously taking treatment for the same. Hence, on these grounds, 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 according to the statement of the victim under Section 164 of the Cr.P.C. no case is made out for grant of anticipatory bail to the applicant.

5. Learned counsel appearing for the parents of the victims, namely, Arvind and Munna Jaiswal submits that the parents of the victims themselves have no objection for grant of anticipatory bail to the applicant therefore, the application be allowed.

Arvind and Munna Jaiswal both are fathers of the victims who are present before this Court, have stated that no offence has been committed

against their daughters and have no objection for grant of anticipatory bail to the applicant.

6. Heard counsel for both the parties and perused the case diary.

7. In the FIR lodged, it is alleged that one of the victim aged about 12 years was engaged in household work by the applicant. It was during that time some unknown persons were admitted to the house of the applicant whom the applicant permitted to commit sexual offence with the victim. Another victim aged about 11 years was also engaged in the same house and she is the witness to all these incidents. Hence, this case.

8. Considered the entire material present in the case-diary. The statement made by the parents of the victims has some relevance and the medical evidence is also significant in this case which does not suggest any sexual offence having been committed with the victim. Apart from that, the medical condition of the applicant herself is also taken into consideration and therefore, I feel inclined to grant anticipatory bail to the applicant.

9. 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, she shall be released on bail by the Officer arresting her 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. She shall also abide by the following conditions:

- '(i) that the applicant shall make herself 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 her by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge