

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 524 of 2019**

Prem Das Mahant, S/o. Late Natthudas Mahant, Aged About 31 Years,
Occupation- Agriculture, Caste- Panika, R/o. Police Station and Tahsil-
Gharghoda, District- Raigarh, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station-
Gharghoda, District- Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Chandra Bhushan Kesharwani, Advocate
For Respondent	: Mr. Samdarsh Nirankari, P.L.
For Complainant	: Ms. Mandvi Bhardwaj, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****25/04/2019**

1. Apprehending arrest in connection with Crime No.120/2018, registered at Police Station – Gharghoda, District – Raigarh (C.G.) for offence punishable under Section 376, 506 of Indian Penal Code and Section 4, 6 of POCSO Act, 2012, the applicant has preferred this second application for grant of anticipatory bail. The first bail application for grant of anticipatory bail is dismissed as withdrawn vide order dated 03.08.2018 in M.Cr.C.(A) No.715/2018.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix in this case was consenting party and was above the age of 18 years on the date of incident. Further the development that has taken place is this that the applicant and the prosecutrix both have

married together and are living together. The prosecutrix herself is present before the Court to make statement that she has no objection in grant of anticipatory bail. Therefore, it is prayed that the applicant be granted 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 there is clear evidence to show that the prosecutrix was minor on the date of incident, therefore, the applicant is not entitled for grant of bail.
4. Counsel for the complainant/prosecutrix submits that prosecutrix is present and ready to make statement and support the application and an application has also been filed making prayer that complainant has no objection.
5. The prosecutrix is present in person before this Court, she has been identified by counsel appearing for her and she has made statement that she has no objection in grant of anticipatory bail to the applicant. Confirming the submission made by the counsel for the applicant she has made statement that she and the applicant both have married and are living together.
6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
7. The case against the applicant is this that he by putting the minor prosecutrix under threat, committed the offence of rape with her, regarding which FIR was lodged by the prosecutrix.
8. Considered the submissions made and the contents of the case diary. Considered on all the material present in the case diary and for the reason that the prosecutrix has made statement that the

applicant has married the prosecutrix and are living together and she has no objection in grant of anticipatory bail to him, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

9. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
10. 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 today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge