

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 565 of 2019**

Surya Shankar Sahu S/o Shri Ishwar Das Sahu Aged About 31 Years R/o Ward No. 16, Jayanti Nagar, Sikolabhata, Police Station Mohan Nagar, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Supela, Police Chowki Smriti Nagar, Civil And Revenue District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sandeep Yadav, Advocate.
For the Respondent/State : Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.04.2019**

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. 252 of 2019, registered at Police Chowki Smriti Nagar, Police Station Supela, Durg, District Durg, Chhattisgarh for the offence punishable under Sections 376 and 506 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix is a major woman aged about

28 years and the applicant and the prosecutrix both had physical relation on number of occasions which was based on consent of each other. The only grievance of the prosecutrix is that the applicant has refused to marry her and refusing to marry, is not an offence. Hence, it is prayed that the applicant is entitled for grant of anticipatory bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the applicant had obtained the consent of the prosecutrix by deceit and by promising to marry her. Hence, for these reasons, he is not entitled for grant of anticipatory bail.

5. Learned counsel for the Objector adopts the arguments submitted by the State counsel and submits that the applicant had continuously exploited the prosecutrix on promise to marry her and ultimately, the applicant refused to marry her. Hence, for these reasons, he is not entitled for grant of anticipatory bail.

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

7. According to the FIR lodged, the applicant and the prosecutrix became acquainted in the month of August, 2016. The prosecutrix was then living separate from her husband and was having a child from her wedlock. It is alleged that the applicant allured the prosecutrix with a promise to marry her and has exploited her sexually on number of occasions. When the prosecutrix gave an ultimatum for marrying her then he denied to marry her.

8. Considering the entire material present in the case-diary, I am of the view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

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, 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.'

Sd/-
(Rajendra Chandra Singh Samant)
Judge