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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 517 of 2019**

Megha Tiwari W/o Shri Abhishek Tiwari Aged About 33 Years R/o Bazar Chowk, Mujgahan, Loharsi Dhamtari, District Dhamtari Chhattisgarh. Present R/o Behind Of Suyash Hospital Gharouda, Kota, Raipur, Tahsil And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station Hosue Officer, Police Station Saraswati Nagar, Raipur District Raipur Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 2269 Of 2019**

Dr. Ajay Sahu S/o Mr. Sadhuram Sahu Aged About 30 Years Permanent R/o Village Mohadi, Bhilai-3, District Durg, Chhattisgarh, Presnt Address- Near Daganiya Water Tank, Kumari Verma's House, P.S. D.D. Nagar, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through The Police Station Saraswati Nagar, Raipur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Y.C. Sharma and Shri Ankur Agrawal, Advocates.
For the Respondent/State	:	Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.04.2019**

Heard.

- Both these applications are being decided by this common order as they arise from the same incident. M.Cr.C.(A) No. 517 of 2019 is the first application under Section 438 of Cr.P.C. filed by the applicant for grant of

anticipatory bail, who is apprehending arrest in connection with Crime No.8 of 2019, registered at Police Station – Saraswati Nagar, District – Raipur, Chhattisgarh for the offences punishable under Section 376(च) of the Indian Penal Code.

M.Cr.C. No. 2269 of 2019 is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicant for grant of regular bail to him, who has been arrested in connection with Crime No.8 of 2019, registered at Police Station – Saraswati Nagar, District – Raipur, Chhattisgarh for the offences punishable under Section 376, 323 and 506 of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants have been falsely implicated in this case. It is submitted on behalf of applicant – Megha Tiwari in M.Cr.C.(A) No. 517 of 2019 that there is no allegation that she had participated in the commission of offence of rape. The only allegation against her is that she threatened the prosecutrix for not disclosing about the incident to any person, which is only an offence under Section 506 of the IPC for which she may be prosecuted. Hence, for these reasons, applicant - Megha Tiwari in M.Cr.C.(A) No. 517 of 2019 is entitled for grant of anticipatory bail.

On behalf of applicant – Dr. Ajay Sahu in M.Cr.C.(A) No. 2269 of 2019, it is submitted that he has been falsely implicated in this case. The complainant/ prosecutrix in this case had earlier approached the Sakhi One Stop Centre on 28.12.2018, in which she had complained only against Megha Tiwari about exploiting, harassing and misbehaving with her. Another

complaint of similar nature was also filed by her on 29.12.2018 in Sakhi One Stop Centre, Raipur on 29.12.2018 but again the name of this applicant was not mentioned in the same, whereas, the prosecutrix had opportunity to complain against this applicant. In the later on development, the FIR has been lodged on 12.1.2019. The medical evidence also does not support the case of the prosecution and the case is under investigation. It is further argued that under the Right to Information Act, the applicant has received information from Gharaunda on 18.3.2019 in which it is informed that the alleged period of offence applicant – Dr. Ajay Sahu was not noticed in the CCTV footage, which was examined to give this information. Hence, for these reasons, applicant - Dr. Ajay Sahu in M.Cr.C. No. 2269 of 2019 is entitled for grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect.

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

5. According to the prosecution case, applicant – Dr. Ajay Sahu was a Physiotherapist in Gharaunda, A Government Organisation. It is alleged that between the period 16.11.2018 and 26.11.2018, applicant – Dr. Ajay Sahu committed the offence of rape with the prosecutrix on number of occasions. Subsequently, when the Superintendent of that organization applicant – Megha Tiwari in M.Cr.C.(A) No. 517 of 2019 came to know about the incident, she threatened the prosecutrix with dire consequences in case she disclosed about the incident to anybody. Hence, this case.

6. The case has been investigated and the charge-sheet has been filed. It has appeared that applicant – Megha Tiwari came to know of the incident of rape on later point of time and thereafter, she has threatened the complainant. Hence, under these circumstances, I feel inclined to allow the anticipatory bail application of applicant - Megha Tiwari in M.Cr.C.(A) No.517 of 2019.

The prosecutrix in this case is mentally retarded person and according to the statement of the witnesses the prosecutrix had been upset for a number of days before she disclosed about the incident. The medical report does not give any definite opinion, but the other symptoms found in her private parts shows that the prosecutrix has been abused sexually. Hence, for these reasons, I am of this opinion that the grounds raised by this applicant can be a material for defence but for the present, I do not feel inclined to allow the bail application of applicant - Dr. Ajay Sahu in M.Cr.C. No.2269 of 2019.

7. Accordingly, the bail application of applicant - Megha Tiwari in M.Cr.C. (A) No.517 of 2019 filed under Section 438 of the Cr.P.C. is allowed and the bail application of applicant - Dr. Ajay Sahu in M.Cr.C. No. 2269 of 2019 filed under Section 439 of the Cr.P.C. is rejected.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of applicant – Megha Tiwari in M.Cr.C.(A) No.517 of 2019 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