

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 601 of 2019**

Mukesh Nayak, S/o. Phool Singh Nayak, Aged About 20 Years, R/o. Village- Jogitarai, Police Station- Pusour, District- Raigarh, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Police Station- Chakradharnagar, District- Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Sharmila Singhai, Advocate
For Respondent	: Mrs. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****13/05/2019**

1. Apprehending arrest in connection with Crime No.29/2019, registered at Police Station – Chakradhar Nagar, Raigarh, District – Raigarh (C.G.) for offence punishable under Section 376, 3 (2) (10), 3 (2) (5) (a) of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned 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 present in the case diary. The prosecutrix is 20 years old major lady and physical relation that is alleged to have taken place appears to be based on consent. The FIR is lodged belatedely after passing of more than one year as a counter blast to the FIR lodged against the complainant herself. As in the FIR Lodged against the complainant, she used to make demand of money from father of the applicant and subjected him to harassment and because of which, he has

committed suicide. Therefore, it is prayed that the applicant may be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged, the applicant established physical relation with the prosecutrix on 18.02.2018 and continued exploiting her sexually for sometime. FIR has been lodged on 23.01.2019.
6. Considered the submissions made and the contents of the case diary. For the reason that there is no explanation given regarding delay in lodging FIR and also for the reasons that copy of the FIR against the prosecutrix filed along with the application has a substance to show that this may be a case of counter blast, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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 as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram