

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 640 of 2019**

Raj Pandit Mahilange S/o Raghunandan Mahilange Aged About 26 Years
R/o Village Binauri, Police Station Pachpedi (Masturi), District Bilaspur
Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Disgtrict Magistrate Through Station House
Officer, Police Station Sarangarh, District Raigarh Chhattisgarh., District :
Raigarh, Chhattisgarh.

---- Respondent

For the Applicant : Shri Hemant Kesharwani, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****12.07.2019**

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. 91 of 2019, registered at Police Station – Sarangarh, District Raigarh, Chhattisgarh for the offence punishable under Section 376 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 in this case is a major woman aged about 25 years and she had been a consenting party throughout in the

physical relation. The prosecutrix filed a complaint to the police stating that she and the applicant both had married in a temple, and made allegations about cruel treatment by the applicant. In the proceedings of the Family Counseling Centre, Janjgir-Champa, the prosecutrix has again made a statement that she does not want to live with the applicant in a joint family and she will live only if he lives separately with her, therefore, the allegation in this FIR is of no consequence. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the applicant has deceitfully obtained consent for physical relation with the prosecutrix. Hence, no case is made out for grant of anticipatory bail.

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

6. According to the FIR lodged, the prosecutrix got acquainted with the applicant in the year 2016 since then, the applicant was making propositions to her. On 14.1.2017, the applicant allured the prosecutrix with a promise to marry her and then had physical relation with her which continued for sometime till the prosecutrix became pregnant. The pregnancy of the prosecutrix was aborted at the instance of the applicant and thereafter, the applicant has refused to marry the prosecutrix and has also deserted her. Hence, this case.

7. After considering the material present in the case-diary and also perusing the documents filed alongwith the application with respect to the

proceedings of the Family Counseling Centre, I feel inclined to grant anticipatory bail to the applicant.

8. 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. He 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 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