

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 749 of 2019**

Ashish Rajwade, S/o. Dipsai Rajwade, Aged About 25 Years, Occupation -Student, R/o. Village Chitabahr, P. S. Darima, Tehsil and Ambikapur District Surguja Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Darima, District Surguja Chhattisgarh.

---- Respondent**AND****M.CR.C.(A). No. 822 of 2019**

Vishnu Kumar Vishwas, S/o. Krishnapad Vishwas, Aged About 47 Years, Occupation- Transporter, Caste Vaishya, R/o. Village Chathirma, P. S. Gandhinagar, Tehsil Ambikapur, District- Surguja, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Darima, District Surguja Chhattisgarh.

---- Respondent

For Applicants : Mr. Shakti Raj Sinha, Advocate

For Respondent/State : Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/06/2019**

1. Both the bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
2. Apprehending arrest in connection with Crime No.46/2019, registered at Police Station – Darima, District – Surguja (C.G.) for offence punishable under Section 376 (2) (n), 506, 313, 34 of the

Indian Penal Code, the applicants have preferred these applications for grant of anticipatory bail.

3. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. The prosecutrix is a major woman of 23 years. The applicant – Ashish Rajwade and the prosecutrix both had an affair and had consensual physical relationship between them. Earlier the prosecutrix had approached the police to make a complaint, against which a notice under Section 155 of Cr.P.C. was issued mentioning that no offence is made out, copy of which is attached as Annexure A-4. Regarding the statement of the prosecutrix that she was administered some medicines by the applicant -Ashish Rajwade, to bring miscarriage, is totally false statement, because in the hospital admission form the prosecutrix had made statement that she herself had taken some medicine to abort her pregnancy, therefore, the applicant – Ashish Rajwade can not be held responsible. On behalf of the applicant – Vishnu Kumar Vishwas it is submitted that there is no evidence against him regarding commission of offence, it is only because his vehicle was used by co-accused Ashish Rajwade for purpose of conveyance with the prosecutrix when both of them eloped, therefore, he had been arrayed as an accused in this case. Therefore, it is prayed that the applicants may be granted anticipatory bail.
4. Per contra learned State counsel opposes the applications for grant of bail and the submissions made in this respect. It is submitted that according to the statement given by the prosecutrix, no case is made out for grant of anticipatory bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to the FIR lodged, the applicant Ashish Rajwade made a promise to the prosecutrix about three years prior to the lodging of FIR on 06.04.2019 that he will marry her and took her to the residence of co-accused Vishnu Kumar Vishwas and raped her. This affair continued then prosecutrix became pregnant, thereafter, the applicant Ashish Rajwade did not fulfill the promise to marry her and got her pregnancy aborted.
7. Considered the submissions made and the contents of the case diary. On perusal of the case diary it has appeared in the hospital admission form, which is a part of the case diary, that the prosecutrix herself has made statement that she herself has taken some medicines to get the pregnancy aborted. As it has appeared that the relationship existed between applicant – Ashish Rajwade and the prosecutrix for quite some time and when the applicant stalled in fulfilling the promise to marry her, therefore, the FIR has been lodged, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, both the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :

- (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram