

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 739 of 2019**

Shivprakash Sahu S/o Shri Ramsewak Sahu Aged About 37 Years R/o Manipur, (Bilaspur Chowk) Police Station And Tehsil Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station AJK Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

For the Applicant : Shri Shakti Raj Sinha, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****25.07.2019**

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. 223 of 2019, registered at Police Station – AJK, Ambikapur, District Surguja, Chhattisgarh for the offence punishable under Section 376(2)(k) of the Indian Penal Code and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. It is submitted by 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 placed before the Court by the prosecution. The prosecutrix is a major woman aged about 33 years. In fact, there had been a relationship between the applicant and the prosecutrix since the year 2016 up till January, 2019 and the relationship between them was consensual. The prosecutrix is also a married woman and she has made totally false allegation against the applicant. 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. According to the statement given by the prosecutrix, this applicant used to have forceful sexual intercourse with her on several occasions because of which, she became pregnant and gave birth to one child. Later on, an agreement took place between them but when the applicant refused to pay the maintenance for child, hence, the FIR has been lodged. Hence, he is not entitled for grant of anticipatory bail.

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

6. According to the prosecution case, the applicant used to exploit the prosecutrix who used to work as a labour. This exploitation continued on number of occasions because of which, the prosecutrix became pregnant and she gave birth to a child. The applicant has denied the parentage of the child and also denied paying maintenance for the same. Hence, the FIR has been lodged.

7. Considered the entire material in the case-diary. It appears that the incident continued for about three years but the prosecutrix never

complained and the FIR has been lodged after the birth of the child regarding which, her claim is that the applicant is father of the child. Hence, looking to the facts and circumstances of this case, 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