

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 768 of 2019**

Gaukarn Yadav, S/o. Makund Ram Yadav, Aged About 22 Years, R/o. Village - Pondi, Post Siltara, Tahsil and Police Station -Takhatpur, District Bilaspur Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station - Takhatpur, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant	: Mrs. Indira Tripathi, Advocate
For Respondent	: Mr. Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****17/05/2019**

1. Apprehending arrest in connection with Crime No.128/2019, registered at Police Station – Takhatpur, District – Bilaspur (C.G.) for offence punishable under Section 376 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 married woman of age 22 years having one child, who has levelled totally false allegation against the applicant. Even, if the, allegations are to be believed then it is a case of consensual physical relation. The complainant had created a scene few days before lodging of FIR, before the marriage of this applicant, which was scheduled on 02.05.2018 as she had made clear her intention that she wants to marry this applicant and if it is

not agreed by the applicant and his family members, she will falsely implicate them regarding which complaint has been made to the Superintendent of Police, Bilaspur 29.04.2019 and thereafter after performance of marriage of the applicant, she has falsely implicated the applicant in this case. 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. It submitted that according to the statement given by the prosecutrix, the applicant has committed the offence of rape without her willingness and consent of the prosecutrix, therefore, the application be rejected.
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 on pretext of marrying the prosecutrix, a married woman, established physical relation with her from about one year prior to the date of lodging of FIR and this relation continued and ultimately when the applicant has married to some other girl, the complaint has been filed.
6. Considered the submissions made and the contents of the case diary. After considering the age of the prosecutrix and long relation of the applicant with the prosecutrix and also the allegation to the grievances that the applicant has refused to marry her, 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