

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 890 of 2019**

Lalit Singh S/o Mana Singh Aged About 29 Years R/o Village Hathnikala,
Police Station City Kotwali, Mungeli, District Mungeli Chhattisgarh., District :
Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
City Kotwali Mungeli District Mungeli Chhattisgarh., District : Mungeli,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Suresh Kumar Verma, Advocate.
For the Respondent/State	:	Shri Rahim Ubwani, P.L.
For the Objector	:	Shri Ajay Mishra, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.06.2019**

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. 315 of 2019, registered at Police Station – City Kotwali, Mungeli, District Mungeli, Chhattisgarh for the offence punishable under Sections 376 and 506/ 34 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 applicant is a soldier in Indian Army. The incident that is alleged to have taken place on 13.3.2013 has been reported

in the year 2019 and the delay has not been explained, therefore, it clearly indicates that the relation with the prosecutrix was consensual. The only grievance of the prosecutrix is that the applicant has refused to marry her. The prosecutrix is a major lady and she is capable to give consent for physical relation. 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 not only refused to marry her after exploiting her sexually, but he also threatened her with life. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Learned counsel for the Objector submits that the applicant has made a false promise to marry the prosecutrix since 2012 and has exploited her sexually from 13.3.2013 and also kept stalling the marriage on pretext that her brother is still not married. Prior to lodging of FIR, when the prosecutrix insisted for marriage, then the applicant has plainly refused and threatened her. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

7. The case of the prosecution in brief, is that the applicant on pretext of marrying the prosecutrix had physical relation with her on 13.3.2013 and thereafter, he has kept stalling the marriage and has finally refused to marry the prosecutrix and threatened her with dire consequences.

8. The delay in lodging the FIR is almost 6 years and the prosecutrix is a major lady. Considering the fact that the applicant is a soldier in Army, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

9. 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