

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1482 of 2019**

Rajesh Kumar Sahu, S/o. Pawan Kumar Sahu, Aged About 31 Years, R/o. Village Banglapara, Main Road Tumgaon, Police Station -Tumgaon, Tahsil and District Mahasamund Chhattisgarh.

----Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Tumgaon, District Mahasamund Chhattisgarh.

---- Respondent

For Applicant	: Mr. Gurudev I. Sharan, Advocate
For Respondent	: Mr. Shrikant Kaushik, P.L.
For Objector	: Mr. Ravindra Sharma, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****17/12/2019**

1. Apprehending arrest in connection with Crime No.55/2019, registered at Police Station – Tumgaon, District – Mahasamund (C.G.) for offence punishable under Section 498-A & 313/34 of the Indian Penal Code, the applicant has preferred this second bail application for grant of anticipatory bail. The first bail application of the applicant has been dismissed on merits vide order dated 26.04.2019 in M.Cr.C.(A) No.536 of 2019.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. Subsequent to dismissal of anticipatory bail application by this Court, the applicant surrendered before the remand Court on 13.05.2019 and made prayer for grant of regular bail and his application was allowed by the trial Court and he was granted bail.
3. Now at the stage of filing charge-sheet, the prosecution intends to add the offence under Section 313 of I.P.C., therefore, the applicant

has apprehension of being arrested. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

4. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that subsequent to earlier dismissal of application for grant of anticipatory bail, the applicant is not entitled for any relief.
5. Counsel for the objector submits that evidence regarding commission of offence under Section 313 of I.P.C. was not taken into consideration earlier by the Court below and this Court also in deciding the application under Section 438 of Cr.P.C., therefore, the application be rejected.
6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
7. Earlier the offence was registered against the applicant under Section 498A of I.P.C.. Further the statement of the complainant and other was present that this applicant had forced the complainant to get her pregnancy aborted. This evidence and statement finds mentioned in the order of this Court in M.Cr.C.(A) No.536 of 2019. The applicant then surrendered before the trial Court and prayed for bail. In the order granting bail of the concerned Court this objection was raised that this applicant forced the complainant to abort her pregnancy and after considering this submission, the application for grant of regular bail was allowed.
8. It is found that the contents regarding the commission of offence under Section 313 of I.P.C. was always present before the Courts and after considering on the same, regular bail has been granted to the applicant.

9. According to the principle of law, in such case, if the, police intends to arrest the applicant, in that case, the police or the prosecution will have to seek cancellation of earlier order granting bail. Hence on the basis of this observation, it is found that this applicant has no apprehension as his arrest can be made only after cancellation of order granting bail, which has been granted by the learned Court below.
10. Accordingly, the application for grant of anticipatory bail is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram