

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1555 of 2019**

Jai Prakash Kashyap S/o Shri Jagdish Prasad Kashyap Aged About 22 Years R/o Village Kosmanda, Tahsil Champa, District- Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh Through Police Station Saragaon, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
2. Gautam Yadav S/o Late Gorelal Yadav Aged About 40 Years R/o Village And Post- Kosmanda, Tahsil Champa, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
3. Ku. Sumita Yadav D/o Shri Gautam Yadav Aged About 19 Years R/o Village And Post Kosmanda, Tahsil Champa, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondents

For the Applicant	:	Shri V.A. Goverdhan, Advocate.
For the Respondent/State	:	Shri Jitendra Shukla, P.L.
For the Complainant	:	Shri Ravindra Sharma, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.09.2019**

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. 45 of 2018, registered at Police Station – Saragaon, District – Janjgir-Champa, Chhattisgarh for the offences punishable under Section 363, 366 and 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix in this case is a major woman and she had been a consenting party. This applicant and the prosecutrix both have married about a year back and now they are having a girl child which was born on 16.9.2019. At present, the prosecutrix is living with 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.

5. Respondent No.2 – Gautam Yadav is present in person alongwith Shri Ravindra Sharma, Advocate. He made a statement that he has no objection in grant of anticipatory bail to the applicant and he also submits that his daughter is now married and living with the applicant and she is now having a child.

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

7. According to the prosecution case, this applicant abducted the minor prosecutrix aged about 17 years and has exploited her sexually.

8. Considering the fact that the complainant/ informant has no objection in grant of anticipatory bail to the applicant and further, issue has been raised that the prosecutrix was of age above 18 years on the date of incident and also looking to this fact that the applicant and the prosecutrix have

married, living together and having a child, therefore, I feel inclined to grant anticipatory bail to the applicant.

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. 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 them 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