

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1659 of 2018

- Serajuddin S/o Late Md. Saadik, Aged About 65 Years, R/o Village Mahuwadhih, Tahsil And P. S. Shankargarh, District Balrampur-Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh Through The Station House Officer, Police Station Shankargarh, District Balrampur-Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Non-applicant

For Applicant – Shri A.K. Prasad, Advocate.

For Non-applicant/State – Shri Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-01-2019

1. Apprehending arrest in connection with Crime No.48/2018, registered at Police Station – Shankargarh, District Balrampur-Ramanujanj, Chhattisgarh for offence punishable under Section 376 of the IPC and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act'), the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that this is second anticipatory bail application of the applicant. Earlier application MCRCA No.908 of 2018 was filed by the applicant as he was apprehending arrest for the offence punishable under Section 294, 506, 323, 354 of the IPC and the same was allowed on 05-09-2018 by this Court. In the development later on, the prosecutrix has made additional statement before the police alleging that the applicant has raped her, which is totally false statement, but on that basis offences under Section 376 of the IPC and Section 3(2)(v) of the SC/ST Act have also been added, because of which the applicant is apprehending his arrest again. Therefore, it is prayed that on the strength of the previous order

the applicant is again entitled for anticipatory bail, hence, the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that according to the additional statement made by the prosecutrix against this applicant, no case is made out for grant of anticipatory bail.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the facts of the case, the date of incident is 06-06-2018 and the FIR was lodged on 07-06-2018 by the prosecutrix herself, in which the allegation was to the extent of outraging her modesty only and she made similar statement in her statement recorded under Section 161 of the Cr.P.C. on 08-06-2018. Later on, the additional statement of the prosecutrix was recorded on 23-11-2018 in which she has stated that the applicant was the person who had raped her in the same incident.

6. After considering on the material present in the case diary and the development that has taken place after passing of some time, I feel inclined again to extend the benefit of Section 438 of the Cr.P.C. to the applicant.

7. Accordingly, the anticipatory bail application is allowed. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil