

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1726 of 2018**

Bhagwan Das, S/o. Ram Avatar, Aged About 30 Years, R/o. Village Pampapur, P. S. Surajpur, District Surajpur, Chhattisgarh.

----Applicant**Versus**

The State Of Chhattisgarh, Through : Station House Officer- Surajpur, District Surajpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. A.K. Prasad, Advocate

For Respondent/State : Mr. Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****18/01/2019**

1. Apprehending arrest in connection with Crime No.478/2018, registered at Police Station – Surajpur, District – Surajpur (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 has lodged FIR in which totally improbable story has been brought-forth. Earlier a complaint was filed by P.S. Surajpur, before the S.D.M. for preventive proceedings against this applicant on 20.10.2018, regarding which statements

were recorded of the prosecutrix and her husband and they have not made any statement regarding the offence of rape committed. However, this shows that there had been enmity between the applicant and the husband of the prosecutrix. FIR has been lodged after sufficient delay on 27.11.2018 and the explanation given was that the prosecutrix was under threat given by the applicant, which is improbable as the prosecutrix had opportunity to make statement against him in the preventive proceedings filed against the applicant. Apart from that, the statement in the preventive proceedings speaks that applicant was raising dispute on the speech of applicant that he wants to elope with the prosecutrix, therefore, it is totally a concocted case. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that according to the statement given by the prosecutrix, no case is made out for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. It is alleged that on 19.10.2018 at about 11.00 AM when the prosecutrix was present in agricultural field, this applicant arrived on the spot and then he by force had physical relation without her willingness and consent. Hence, this case.
6. Considered the submissions and the contents of the case diary. Considering on the entire material present in the case diary and also considering the documents filed along with the bail application regarding preventive proceedings drawn against the applicant,

which speak a different story. Hence, after due consideration 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