

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 24 of 2020**

- Sundermani Namdev @ Raju S/o Dinesh Namdev Aged About 30 Years R/o In Front Of High School Bharat Mata Chowk Chandrapur, District Janjgir - Champa, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station - AJAK Bilaspur, District - Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:- Mr. Tarendra Kumar Jha, Advocate
For Respondent-State	:- Mr. Sudeep Agrawal, Dy. A.G.
For Objector	:- Mr. Pravin Kumar Tulsyan, Advocate

Proceedings through Video Conferencing**Hon'ble Shri Justice Prashant Kumar Mishra**
Order On Board**25/06/2020**

1. The applicant has preferred this application for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.858/2019, registered at Police Station AJAK Bilaspur, District Bilaspur, C.G. for offences punishable under Section 376 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989.

2. Applicant executed a notarized agreement with the complainant on 15.01.2016 promising to marry her and thereafter they lived together for about a year. On 19.08.2019, the complainant, aged about 36 years became aware of the fact that applicant has married some other girl, thereafter the present Police complaint has been filed on 05.11.2019.
3. I have heard learned counsel for the parties and considered their submissions and gone through the record.
4. Shri Tarendra Kumar Jha, learned counsel for the applicant would refer to a recent judgment of Supreme Court in the matter of **Pramod Suryabhan Pawar vs The State Of Maharashtra** decided on 21.08.2019 to argue that when there was no promise to marry from inception, offence under Section 376 of the I.P.C. is not made out. It is also argued that bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (herein after referred as 'the Act, 1989') is not attracted, therefore, the complainant being an adult lady aged about 36 years and the affair being continued for about 04 years, the applicant is entitled for anticipatory bail.
5. The question is as to whether there was an element of fraud from the beginning is to be decided in course of trial. At present, the notarized agreement dated 15.01.2016 wherein

the applicant had promised to marry the lady, is *prima-facie* evidence that before entering into the relationship, he agreed to marry the lady, therefore, it is not a case where the sexual relationship started much before the agreement to marry. Moreover, the lady belongs to Scheduled Caste community and when she confronted the applicant as to why he is not marrying her she was abused and threatened in the name of her caste.

6. Considering the nature of allegation as also for the bar under Section 18 of the Act, 1989, this Court is not inclined to extend the benefit of anticipatory bail. Accordingly, the application is rejected.

SD/-

(Prashant Kumar Mishra)
Judge

Ayushi