

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 264 of 2021

- Sourabh @ Sunny James, S/o Shri Samul James, Aged About 30 Years R/o Jarhabhatha, Near Mandir Chowk, Bilaspur, Police Station- Civil Line Bilapur, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Civil Line Bilaspur, District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Praveen Das and Mr. Rishi Rahul Soni,
Advocate.

For Respondent/State : Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

23/02/2021

Heard.

1. This is **2nd bail** application on behalf of the applicant for grant of anticipatory bail. His earlier application bearing MCRC (A) No.664 of 2017 was rejected on merits vide order dated 13.4.2018.
2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.551/2016 registered at Police Station Civil Lines, Bilaspur, District– Bilaspur(C.G.), for the offence punishable under Sections 354, A, B, D, 506-B, 294, 323, 34, 376 of the Indian Penal Code (for short 'IPC') and Sections 7 & 8 of the Protection of Children from Sexual Offences Act,

2012.

3. Learned counsel for applicants submits that applicant is innocent and has been falsely implicated in this case. It is submitted that it is a case of total false allegation. This applicant in his earlier application had prayed for grant of anticipatory bail on the ground of *alibi*. The victim of this case has been used by her father to lodge false complaint against the applicant and others. The ground of *alibi* that was raised earlier has been established. Samuel James, father of this applicant, filed WP(Cr.) No.1216/2019 which has been disposed off vide order dated 11.12.2019, in which, the liberty was granted to the petitioner therein to move application before the jurisdictional criminal Court praying for further investigation in accordance with law. Subsequent to which, Samuel James filed an application under Section 173 (8) of CrPC, a copy of which is Annexure A-32, and the same was decided in favour of the applicant by the trial Court vide order dated 25.1.2020 directing the police-station-Civil Lines to make further investigation in the case. The CCTV footage of Rama Magneto Mall, Bilaspur and PVR Cinema was provided to the Investigating Officer, which was viewed and panchnama has been prepared by the Investigating Officer in presence of witnesses, according to which on 11.9.2016 the presence of this applicant was noticed in the video footage between 7:24 pm to 10:32 pm and on that basis, the report has been submitted by the SHO, Civil Lines, Bilaspur to the Additional Sessions Judge (FTC) referring to the panchnama mentioning that the presence of this applicant was noticed in Rama Magneto Mall and PVR Cinema between 7:24 pm to 10:32 pm on 11.9.2016.
4. It is submitted that this report of additional investigation is a change in circumstance in favor of this applicant, which should be taken note of

by this Court and anticipatory bail be granted to him.

5. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that statement of the victim in this case cannot be thrown away at this stage, who is making direct allegation against the applicant, although submission of report by Investigating Officer dated 29.12.2020 before the trial Court is not denied. The application for grant of anticipatory bail is opposed.
6. Considered on the submissions. The previous case of this applicant was decided on merits, therefore, there is no need to go into details of merits again. The date and time of incident as per FIR lodged is 11.9.2016 at about 7:30 pm in the evening, during which period the applicant is shown to have committed all the offences as alleged. Initially the offence under Section 376 of CrPC was not added which has been added later on. The ground of *alibi* taken by this applicant in his earlier application was not considered, looking to the direct statement of the victim and the witnesses of the case. However, at present the situation has noticed some changes, because of the report of additional investigation which has not been disputed by the respondent side. The veracity of this report shall be subject to examination in the trial, but for the present, this report is existing and the ground of *alibi* raised from the applicant side finds support from this report, hence, it can be said that there is change in circumstance in this case, which is in favor of this applicant, hence, on this ground, I feel inclined to allow this application of this applicant.
7. 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 his executing a personal bond in the 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge