

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 271 of 2021**

- Dilip Kumar, S/o Late Krishna Choudhary, Aged About 24 Years Resident Of Village Behariya Engilsh, Police Station Paliganj, Tehsil And District Patna Bilhar(Bihar) ---- **Applicant**

Versus

- State Of Chhattisgarh Through Station House Officer Nandani, Police Station Nandani , District Durg, Chhattisgarh ---- **Respondent**

For Applicant	: Shri Avinash Chand Sahu, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

23.07.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.126 of 2017 registered at Police Station Nandani, District Durg, Chhattisgarh for commission of offense punishable under Section 363 of IPC.
2. Case of the prosecution, in brief, is that, on 18.05.2017, daughter of complainant Laxmikant Sahu was found missing and he lodged report before concerned Police Station on the same day at 8 pm, based upon which instant crime is registered against the present applicant.
3. Anticipatory bail application filed before the Court below was rejected by impugned order.
4. Shri Avinash Chand Sahu, learned counsel for the applicant would submit that on 18.05.2017, prosecutrix accompanied applicant on her own will and they have performed marriage. From their wedlock, they were blessed with a baby girl on 14.10.2018. In support of his contention, he has placed on record Annexure A3, copy issued by the State Health Committee, Bihar. He further submits that

mother of prosecutrix and prosecutrix herself executed an affidavit before the Oath Commissioner, Durg and above affidavits have been placed before Court below along with application for grant of anticipatory bail, wherein they stated that initially, parents of prosecutrix have lodged missing report, thereafter, after recovery of prosecutrix by them, case was closed in view of fact that prosecutrix married with applicant, but again, applicant is being called by Police. Learned counsel submits that in the affidavit of prosecutrix, she has clearly mentioned that she left the house of her parents and went in the company of present applicant, thereafter, they performed love marriage on 17.08.2017 and living happily. He submits that looking to the facts and circumstances of the case, as both of them are already married and they are having a baby girl of two years, applicant may be granted anticipatory bail.

5. On the other hand, Shri BP Banjare, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that on the date of incident, prosecutrix was minor girl, her date of birth is 07.08.1999, as evident from the Mark-sheet seized by the Police. Hence, applicant is not entitled for bail under Section 438 CrPC. Further, on putting a specific query with regard to further investigation based on the documents placed on record by applicant before the Court below, ie affidavit of mother of prosecutrix and the Card regarding birth of baby girl, he submits that no further material is available in the case diary to show with regard to investigation done, if any, based on these above documents.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations, date of incident, documents placed on record by learned counsel for the applicant with regard to affidavit of mother of prosecutrix, and also copy of card of State Health Committee, Bihar showing birth of baby girl from their wedlock to the prosecutrix and present applicant, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) 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;
- c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) 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/-
(Parth Prateem Sahu)
JUDGE