

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 634 of 2021**

- Priti Sagar W/o Sunil Nayak, aged about 30 years, R/o Block No. 3, Saddu, B.S.U.P. Colony, Bairagi Dera, Capital City Phase-2, P.S. Vidhansabha, Distt. Raipur, Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Police Station Vidhansabha, District Raipur, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Badruddin Khan, Adv.
For Non-applicant- State	: Mr. Shrikant Kaushik, P.L.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****05/08/2021**

1. On 19.07.2021 notices were issued to the complainant under the provisions of Section 439 (1-a) CrPC informing the date of hearing of the case on 05.08.2021. Service report of notice is placed on record showing that the service of notice upon the complainant has been completed on 26.07.2021. Today when the case is taken up for hearing twice, no one appeared on behalf of complainant/ victim.
2. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as she apprehends her arrest in connection with Crime No. 9/2021 registered at Police Station Vidhansabha District- Raipur (C.G.) for the offence punishable under Sections 294, 506, 354 & 34 of IPC & Section 8 of POCSO Act.
3. Case of the prosecution, in brief– on 05.01.2021, F.I.R. was lodged by the complainant Firoja Irani mentioning therein that the present

applicant along with other co-accused persons namely Laxmi Banjare, Sunil and Chandu caught hold her daughter and have tried to outrage her modesty, abused in filthy language.

4. Learned counsel for the applicant would submit that there is no allegation of outraging the modesty of daughters of Ali Hassan Jafri upon applicant. He further submits that from the contents of F.I.R., the allegation against the present applicant is that she was abusing in filthy language to Ali Hassan. Co-accused Laxmi Banjare and Neha Mishra have earlier lodged complaint against the complainant party which was prior to complaint against applicant party and similar offences were registered against complainant party. He further submits that only to implicate in the false case, the alleged report was lodged against the present applicant and other co-accused persons. He pointed out that co-accused Laxmi Banjare has already been enlarged on anticipatory bail in MCRCA No. 422/2021 *vide* order dated 28.07.2021, hence, she may also be enlarged on anticipatory bail. Learned counsel read-over the contents of F.I.R. in support of his submissions.
5. On the other hand, Mr. Shrikant Kaushik, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that it is the present applicant who started the dispute and on her instigation, husband of complainant namely Sunil and one another Chandu caught hold of minor girls of complainant and tried to outrage their modesty. He also pointed out that there are 5 criminal antecedents against the present applicant for commission of offence under IPC and 7 cases of prohibitory nature against present applicant, hence, she is not entitled for benefit of Section 438 of CrPC. However, he does not dispute the fact that the allegation in

F.I.R. against the present applicant is with regard to abusement and threatening and not of outraging the modesty of minor girls.

6. I have heard learned counsel for the respective parties.
7. Taking into consideration, the nature of allegation levelled against the present applicant, the manner in which the incident occurred and the fact that the co-accused Laxmi Banjare has already enlarged on anticipatory bail, without commenting anything on merits, I am inclined to allow this bail application.
8. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (9/2021), she shall be released on anticipatory bail by the Officer arresting her on her executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicant shall also abide by the following conditions:
 - (i) that the applicant shall make herself available for interrogation before the Investigation 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 her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
 Judge