

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 647 of 2021

Ominesh Sinha S/o Shri Tapan Kumar Sinha, Aged About 40 Years,
 Occupation - Contractor, R/o Village Shankarghat, (U.S. Baba Colony),
 P.S. and Tehsil -Ambikapur, District -Surguja, (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station
 -Ambikapur, District -Surguja, (Chhattisgarh).

--- Respondent

For Applicant	: Mr. Shaktiraj Sinha, Advocate.
For Respondent-State	: Mr. Roshan Dubey, PL.
For Objector	: Mr. Ranbhir Dwivedi, Advocate alongwith complainant from District Legal Services Authority, Ambikapur.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

16/08/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.171/2021 registered at Police Station –Ambikapur, Distt -Surguja, (CG), for the offence punishable under Section 509, 294/34 of the Indian Penal Code & Section 7 & 8 of Protection of Children from Sexual Offences Act, 2012, (for short, 'POCSO Act').
2. Case of the prosecution, in brief, is that on 12.02.2021 at about 6:45 pm when complainant alongwith her father and sister were going to market from their house, present applicant alongwith his friends standing on road side armed with hockey stick and bat made obscene comments upon them. It was further allegation that whenever complainant and her family members went outside the house, they used to make obscene comments upon them. Based upon complaint, instant crime is registered against applicant and others.

3. Learned counsel for the applicant submits that offence define under Sections 509 & 294/34 of IPC are bailable. Offence under Section 7 & 8 of POCSO Act are non-bailable offence. There is no allegation of offence under Section 7 & 8 of POCSO Act in complaint. There was prior dispute between applicant and family members of complainant for which, applicant himself has lodged a complaint before concerned Police Station based upon which, crime No.864/2020 dated 17-12-20 for offence under Section 147, 294, 506 and 323 of IPC, FIR bearing No.056/2021 dated 27.01.21 for offences under Section 294, 506, 323, 336, 34 of IPC and Crime No.145/21 dated 03.02.2021 for offence under Section 294, 506, 34 of IPC are registered against them. He submits that allegations levelled against applicant are false and frivolous only as a counter blast. Hence, applicant may be enlarged on anticipatory bail.
4. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that complainant has leveled specific allegation against applicant and his friends that whenever complainant and her family members went outside the house, they used to make obscene comments upon them. Complainant in her statement recorded under Section 164 of Cr.P.C made further allegation against applicant of 'beckon' to her. Four other criminal antecedents are also registered against applicant latest in the year 2021 for offence under Section 323, 506, 294 of IPC, hence, he is not entitled for grant of anticipatory bail.
5. Learned counsel for the Objector submits that applicant is a habitual offender and political influenced person. He continuously makes obscene comments upon complainant and her family members, whenever, they were going outside from house. Hence, applicant is not entitled for grant

of anticipatory bail. However, on putting a question to learned counsel with regard to registration of any crime against family members of complainant. On seeking instructions, he submits that he is not aware about any crime registered against them.

6. Heard learned counsel for the parties.
7. From contents of FIR, it is apparent that allegation leveled against applicant is with regard to making obscene comments upon complainant. There is no allegation of commission of any crime under Section 7 of POCSO Act. Learned counsel for the applicant has placed on record as many as 6 FIRs registered against family members of complainant.
8. Considering the entire facts and circumstances of the case, nature of allegation, the fact that there was earlier dispute prior to registration of crime between applicant and family members of complainant, without commenting anything on merits of this case, I am inclined to grant anticipatory bail to applicant.
9. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with crime in question, 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 Arresting Officer. Applicant shall also abide by the following conditions :
 - (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that 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 from disclosing such facts to the Court or to any

police officer;

(iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that applicant shall appear before the trial Court on each and every date given to him by said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-