

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC (A) No.639 of 2021

- Neeraj Vishwakarma, aged 40 years, S/o Srinath Vishwakarma, R/o Ward No.07, Old Gaurella, P.S. Gaurella, Distt. Gaurella- Pendra-Marwahi (CG)

---- Applicant

Versus

- State of Chhattisgarh Through PS- Gaurella, District Gaurella-Pendra-Marwahi (CG)

---- Non-applicant

For Applicant	:	Mr. B.L. Dembra, Advocate.
For Non-applicant	:	Mr. B.L. Sahu Panel Lawyer.

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

23/7/2021

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.120/2021 registered at Police Station Gaurella, District Gaurella-Pendra-Marwahi (CG) for commission of offence punishable under Section 306 of the Indian Penal Code, 1860.
2. As per case of prosecution, on 15.9.2016 at about 4.30 p.m. Kajal (now deceased) set herself on fire in her own house. When she shouted, the residents of vicinity rushed towards her, extinguished fire, took her to the hospital where the doctor noticed 90% burn injuries over her person. She died on 16.9.2016. After merg enquiry, FIR was registered on 8.4.2021 against present applicant for commission of aforementioned offence.
3. Mr. B.L. Dembra, learned counsel for applicant would submit that on the date of incident, deceased was below 18 years of

age and was in one-sided love with present applicant, who is married person and was 35 years of age. As per allegations levelled against present applicant by the deceased in her dying declaration, she was in love with present applicant, as present applicant refused her love saying that he does not love her, therefore, she had committed suicide. He submits that in view of dying declaration of deceased and other materials available, no offence, as alleged against present applicant, would be made out. He further submits that there is inordinate delay in lodging FIR. Hence, the applicant may be extended benefit of anticipatory bail under Section 438 of CrPC.

4. Mr. Sudhir Sahu, learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that in the dying declaration of deceased recorded by the Tahsildar-cum-Executive Magistrate, Pendra Road, there is specific mention that she was in love with present applicant and he by giving a call from his mobile phone to the mobile phone of deceased has stated that he does not love her and will not marry her. He further submits that there is further mention that present applicant asked her to die. In support of his contention, learned State Counsel read over dying declaration as also statement of deceased recorded under Section 161 of CrPC. He submits that in view of material collected by the prosecution, present applicant is not entitled for grant of anticipatory bail under Section 438 of CrPC.
5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations levelled against present applicant; dying declaration of deceased from which it appears that deceased was in one-sided love with present applicant, who is a married person, and the fact that FIR has been lodged with inordinate delay, without commenting anything on merits of the case, I am of the view that present is a fit case where applicant should be granted

anticipatory bail.

7. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with instant crime, he shall be released on anticipatory bail by the officer arresting him on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. The applicant shall also abide by the following conditions :

- (i) that he shall make himself available for interrogation before the Investigating Officer as & when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-