

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**M.Cr.C (A). No. 682 of 2021**

Satendra Kumar, S/o Sokdo, Aged About 28 Years R/o -Korandha, Police Station -Shankargarh, District -Balrampur Ramanujganj, Chhattisgarh.

---- Applicant

**Versus**

State of Chhattisgarh Through The Station House Officer, Police Station -Kotwali, Balrampur, District Balrampur Ramanujganj, Chhattisgarh.

--- Respondent

---

|                      |                                       |
|----------------------|---------------------------------------|
| For Applicant        | : Mr. Jitendra Shrivastava, Advocate. |
| For Respondent/State | : Ms. Anjali Singh Chauhan, PL.       |

---

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

**05/07/2021**

1. This is an application filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.89/2021 registered at Police Station -Balrampur, District – Balrampur Ramanujganj, (CG), for commission of offence punishable under Section 376 (2-n) of the Indian Penal Code.
2. The prosecution story, in brief, is that the applicant, who is working as Peon in Tahsil Office, Balrampur, on the pretext of marrying the prosecutrix has committed sexual intercourse with her initially on 28.07.2017 in his house. Thereafter, on number of occasions the applicant had established physical relation with the prosecutrix, lastly on 13.05.2021. The applicant has refused to marry the prosecutrix and he is going to perform marriage with some other girl. On the basis of above allegations by the prosecutrix, the instant crime has been registered against the applicant.

3. Mr. Jitendra Shrivastava, learned counsel for the applicant submits that the prosecutrix is presently aged about 28 years, she is an educated girl and working as 'Staff Nurse' in Government Hospital, Ramanujganj. The relationship as alleged by the prosecutrix is established based on her consent. The complaint has been lodged only when the prosecutrix had come to know that applicant is going to perform marriage with some other girl. He submits that *prima facie* the offence, as alleged against the applicant, cannot be said to be made out. Relying on the decisions of Hon'ble Supreme Court in **Pramod Suryabhan Pawan vs. State of Maharastara** reported in **(2019) 9 SCC 608** and also the orders passed by this Court in different bail applications, which are annexed as Annexure A-2 with this bail application, he submits that the applicant may be extended benefit under Section 438 of Cr.P.C.
4. On the other hand, learned State Counsel opposes the application and submits that in the complaint/FIR lodged by the prosecutrix there is specific allegation against the present applicant that he has made physical relation with her on the pretext of marriage, therefore, this cannot be treated as a valid consent. She submits that the applicant is not entitled for grant of anticipatory bail.
5. I have heard learned counsel for the parties.
6. There is no dispute that presently the prosecutrix is 28 years old and even when the applicant had committed sexual intercourse with the prosecutrix for the first time, as alleged by her, she was 24 years old. The prosecutrix is an educated lady working as Staff Nurse and she is well aware about the pros and cons of the decisions taken by her of entering into physical relations with applicant.

7. Taking into consideration the nature of allegations, age of the prosecutrix and the decision of the Hon'ble Supreme Court in case of **Pramod Suryabhan Pawan** (Supra), 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 the 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/- 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/-**  
(Parth Prateem Sahu)  
Judge

roshanl/-