

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 706 of 2021**

- Mohan Chandravanshi S/o Shri Pavan Kumar Chandravanshi, aged about 21 years, R/o Village-Gandai Khurd, P.S. Pandatarai, Distt. Kabirdham Chhattisgarh.

-----Applicant

VERSUS

- State of Chhattisgarh through: Station House Officer, Police Station Bodla, District Kabirdham, Chhattisgarh

-----Respondent

For Applicant	: Mr. F.S. Khare, Advocate
For Respondent- State	: Mr. B.L. Sahu, Panel Lawyer
For complainant	: Mr. J.K. Gupta, Advocate

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****20/07/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.116/2021 registered at Police Station Bodla, District Kabirdham (C.G.) for the offence punishable under Section 509(B) of IPC and Section 67 of Information Technology Act.
2. As per the case of prosecution, on 26.05.2021, a written complaint was filed before the concerned police station alleging that on 28.04.2021, she has received obscene messages through 'whatsapp messenger' on her mobile number 8817413121 from mobile numbers 9752301614, 9755311470 and 6261511377. She also narrated name of applicant as person who sent those obscene messages. On the basis of complaint, instant crime was registered against present applicant.
3. Mr. F.S. Khare, learned counsel for the applicant would submit that the applicant has not forwarded/ sent any messages to the complainant's

mobile number. He submits that complainant and the present applicant are known to each other. They belong to same caste and they have met on certain customary functions gathering. He submits that the mobile numbers as mentioned in the impugned order do not belong to present applicant. Complaint has executed an affidavit mentioning therein that under the confusion, name of present applicant has been mentioned in the F.I.R. and she is not having any objection if the present applicant is enlarged on anticipatory bail.

4. Mr. B.L. Sahu, learned State counsel read-over the contents of complaint and argued that there is specific mention of mobile numbers from which obscene messages have been sent to complainant's mobile number and applicant has been specifically named in the F.I.R. However, upon putting specific query with regard to verification of SIM numbers from which obscene messages were received, during the course of investigation, as to in whose name the SIM numbers as mentioned in the impugned order have been issued by the telecommunication company, upon which, he submits that there is no such document(s) till date to show that as to in whose name the said SIM numbers were issued.
5. Mr. J.K. Gupta, learned counsel for the complainant would submit that the complainant is present with him virtually. He submits that the complainant has executed an affidavit mentioning that under the confusion, name of present applicant has been mentioned in the F.I.R. Copy of affidavit executed by complainant, attested through notary, is placed on record.
6. I have heard learned counsel for the respective parties.
7. Taking into consideration the nature of allegation levelled, the fact that the police, during the course of investigation, till now, has not collected the material revealing the name of person in whose name the SIM numbers as mentioned in the impugned order, have been issued by the

telecommunication company from which alleged messages were sent, statement made by the complainant who appeared along with learned counsel that under the confusion, name of applicant has been mentioned in the F.I.R., without commenting anything on merits, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with crime in question (116/2021), 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 arresting Officer. Applicant shall also abide by the following conditions:

- (i) that the applicant shall make himself 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 him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge