

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 737 of 2021**

- Manish Sonkar S/o Devdas Sonkar, aged about 30 years, R/o Ward no. 23, Camp-2, Milan Chowk, Bhilai, Tahsil and District Durg Chhattisgarh

-----Applicant

VERSUS

- State of Chhattisgarh through: Police Station Jamul, District Durg, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. T.K. Jha, Adv.
For Non-applicant- State	: Mr. Shrikant Kaushik, P.L.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****10/08/2021**

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. 394/2020 registered at Police Station Jamul District- Durg (C.G.) for the offence punishable under Sections 294, 506, 323, 394, 34 of IPC.
2. As per the case of prosecution, on 28.08.2020 at about 10:00 pm, present applicant along with Payal have caught hold the neck of complainant Gopi Nahar, snatched gold chain and abused him in filthy language. He was also assaulted by means of hand and fist. The incident was reported to concerned police station on 30.08.2020, based upon which instant crime is registered against present applicant and co-accused Payal.
3. Mr. T.K. Jha, learned counsel for the applicant would submit that

when the applicant and Payal were on their way, they were stopped by complainant along with his friends and they tried to outrage the modesty of Payal and also assaulted them. Payal lodged a complaint to the concerned police station on 30.08.2020 upon which the crime bearing no. 393/2020 was registered against the applicant and three other co-accused persons for the aforementioned offence. Present complaint was lodged by Gopi Nahar as a counter blast to escape from the allegations levelled against him by Payal. He submits that the co-accused Payal is already enlarged on anticipatory bail in MCRCA No. 1400/2020 on 19.03.2021. He referred to paragraph 5 of the said order Annexure A-4 and submits that co-ordinate bench of this Court had an occasion to peruse the case diary of the crime registered on the complaint of Payal and thereafter came to the conclusion that the complaint of Payal was an earlier one and extended benefit of anticipatory bail to the co-accused. Case of the present applicant also falls on the similar footing, hence, applicant may also be enlarged on anticipatory bail.

4. On the other hand, Mr. Shrikant Kaushik, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that the case of co-accused stands on different footing, there is specific allegation against the present applicant, he caught hold the neck of complainant and snatched the gold chain, hence, the allegation against the present applicant is grievous in nature, therefore, he is not entitled to extend benefit of Section 438 of CrPC.
5. I have heard learned counsel for the respective parties and also perused the documents placed on record as well the order dated 19.03.2021 passed in MCRCA 1400/2020.
6. In the said order learned Judge has arrived at a conclusion for

extending benefit of Section 438 of CrPC to the co-accused by observing thus:

“5. Taking into consideration the submission of learned counsel for the parties, perusing the case diary of crime number registered on applicant's report and the report lodged by the complainant-Gopi Nahar, it is prima facie found that the applicant had lodged the report at the earlier point of time alleging that her modesty was outraged and she was also assaulted along with Manish by a group of assailants including Gopi Nahar. The case diary also reveals that the present applicant and Manish both were found having sustained injuries, therefore, possibility of false implication of the present applicant in the complaint cannot be ruled out, in my considered opinion, the present is a fit case for grant of anticipatory bail to the applicant.”

7. Taking into consideration, the nature of allegation levelled against the present applicant, and the observation made in order dated 19.03.2021 with regard to filing of complaint by co-accused Payal in the instant case at earlier point of time, made allegation against the complainant herein and his friends of outraging her modesty, without commenting anything on merits of the case, 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 (394/2020), 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

Pawan