

(Proceedings through video conferencing)

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No.776 of 2021**

- Bhavani Shankar Majhi @ Bhabani Shankar Majhi (wrongly mentioned as Bhavani Shankar Manjhi in Bail rejection order), aged about 32 years, S/o Mohan Chandra Majhi, permanent resident of At: Sandhapur, P.O. Indrapur, P.S.- Bonei, District Sundergarh, Odisha.

**---- Applicants**

**Versus**

- State of Chhattisgarh, through the Station House Officer, Police Station Pandaria, District Kabirdham (CG)

**---- Non-applicant**

|                   |   |                                                                         |
|-------------------|---|-------------------------------------------------------------------------|
| For Applicants    | : | Mr. Abhishek Sinha, Sr. Advocate<br>assisted by Mr. Aditya Pandey, Adv. |
| For Non-applicant | : | Ms. Anjali S Chouhan, Panel Lawyer                                      |

**Hon'ble Mr. Justice Parth Prateem Sahu**

**Order On Board**

**3/8/2021**

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.246/2020 registered at Police Station Pandariya, District Kabirdham (CG) for commission of offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that the complainant and present applicant came into contact through a matrimonial website. On being asked by present applicant, the complainant gave her mobile number to him and thereafter present applicant started talking to her on mobile phone. On 14.9.2019 at about 12.00 in midnight, present applicant came from Odisha to Pandariya where complainant is residing, he stayed in her house and developed physical relations with her on the pretext that he will marry her. Thereafter, they were in continuous touch on mobile phone. In the month of November, 2019 present applicant called the complainant in

Visakhapatnam (Andhra Pradesh), where they stayed in a hotel from 10.11.2019 to 12.11.2019 and there also present applicant committed sexual intercourse with complainant. On being asked by present applicant, the complainant transferred Rs.30,000/- from her bank account to the bank account of present applicant. Likewise, on 11.1.2020 present applicant took the complainant to her sister's house and on 14.2.2020 he called the complainant at Bhubneshwar, stayed with her in a hotel for 2-3 days and this time also he established physical relations with her. The meetings continued till 7.11.2020 when present applicant made allegation against the character & conduct of complainant and refused to marry her. Present applicant also gave threat to the complainant that if she will lodge report then he will make their photographs and other material viral in social media. This made the complainant to lodge report before the concerned police station, based upon which instant crime is registered against present applicant on 17.12.2020.

3. Mr. Abhishek Sinha, learned Senior Counsel for applicant would submit that allegations levelled against present applicant are absolutely false and frivolous. He submits that from the contents of FIR itself it is clear that complainant and present applicant came into contact through a matrimonial website. Applicant is working as Assistant Manager in Union Bank of India, District Jajpur, Odisha; the complainant is aged about 30 years and working as Staff Nurse and their physical relations were consensual. He also pointed out that on number of occasions, the complainant herself had visited the places where applicant called her and stayed with him in hotel/house for couple of days and as per allegations, during that period they made consensual physical relation. He submits that at the time of interaction and coming into contact, the complainant projected herself as Assistant Director, Department of Environment, whereas subsequently it is found that she is working as Staff Nurse. He further pointed out that

during the period of relationship with present applicant, the complainant and her relatives have demanded money from present applicant on several occasions which he had transferred through online. He submits that after some time it revealed to present applicant that the complainant is the lady of bad character & conduct, therefore, he refused to marry her. He further pointed out that initially present applicant wanted to marry complainant, therefore, he took her to his sister's house to introduce her, but on account of certain changed circumstances, present applicant has decided not to marry her. He further submits that act of present applicant does not amount to commission of offence as defined under Section 376 of IPC and at the most, it may amount to breach of promise on subsequent development. In support of his submissions, learned Senior Counsel places his reliance on the decision of Hon'ble Supreme Court in cases of **Deepak Gulati vs. State of Haryana** reported in **(2013) 7 SCC 675** and **Dhurvaram Muralidhar Sonar vs. The State of Maharashtra & ors** reported in **AIR 2019 SC 327**.

4. On the other hand, Ms. Anjali Singh Chouhan, learned Panel Lawyer for the State opposes the submissions made by learned Senior Counsel for the applicant and submits that very specific allegations have been made by complainant which are apparent from the contents of FIR. She further submits that applicant for the first time made physical relation with complainant on the pretext of marriage, but later on he refused to marry her by making false and baseless allegations of bad character and conduct against the complainant. She also submits that in the case diary some mobile chats between present applicant and the complainant are available wherein applicant has abused the complainant in filthy language. Hence, present applicant is not entitled for protection under Section 438 of CrPC.
5. I have heard learned counsel for the parties.

6. Copy of FIR is placed on record as Annexure A-2. Perusal of the contents of FIR would show that present applicant and complainant met through a matrimonial website and thereafter they were in talking terms on mobile phone. As per contents of FIR, applicant and complainant are educated adults. On the date of incident also, even if it was in the year 2019, the complainant was 29 years of age and working as Staff Nurse. In the FIR, the complainant has specifically mentioned about the places of her visit and making of physical relations at different places.
7. I have heard learned counsel for the parties.
8. Taking into consideration the entirety of allegations contained in FIR as also statement of complainant read out by learned State Counsel, the fact that applicant is working as Assistant Manager in Union Bank of India, District Jajpur (Odisha), complainant is major lady aged about 29 years and working as Staff Nurse, without commenting anything on merits, I am inclined to grant benefit of anticipatory bail to applicant.
9. Accordingly, this anticipatory bail application is allowed and it is directed that in the event of arrest of 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 Arresting Officer. Applicant shall also abide by the following conditions:
  - (i) that he shall make himself available for interrogation before the Investigating Officer as and 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 trial.

**Sd/-**  
(Parth Prateem Sahu)  
Judge

roshan/-