

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 803 of 2021**

- Adarsh Tiwari S/o Anil Tiwari Aged About 25 Years Occupation- Private Service, R/o Kenabandh Bouripara Ambikapur, P.S. And Tahsil- Ambikapur, Distt.- Surguja (Chhattisgarh)

---- Applicant**Versus**

- State Of Chhattisgarh Through- District Magistrate Surguja Ambikapur, Police Station - Mahila Thana Ambikapur, District- Surguja (Chhattisgarh)

---- Respondent

For Applicant	: Shri AN Pandey, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

09.08.2021

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. 20 of 2021 registered at Police Station Mahila Thana, Ambikapur, District Surguja Chhattisgarh for commission of offenses punishable under Sections 376(2)(n), 506, 420 and 120(B) of IPC.
2. Case of the prosecution, in brief, is that, complainant after death of her husband in the year 2002, got compassionate employment on the post of Peon in PWD (Public Works Department) in 2005. Since then, she was working as Peon in that department at Manendragarh. In 2016, she came in contact with one Ashish Tiwari, co-accused and brother of present applicant through Face Book. When Ashish Tiwari met with complainant in person, he asked her to get herself transferred to Ambikapur, upon which complainant got her services transferred to Ambikapur in August, 2017. Thereafter, one fine day, Ashish Tiwari came to her house, and asked her to go for wandering to Farmhouse of his relative. When they visited Farmhouse, Ashish Tiwari stated

that he likes her, want to marry her and made sexual intercourse with her. It continued till 2018. He also taken Rs.5 lakhs for the purpose of purchase of Scorpio vehicle in her name. Present applicant, for the purpose of handing over the money, made a phone call to complainant and also gave assurance that Ashish Tiwari would marry her. When after giving Rs.5 lakhs, which complainant obtained through personal loan, Ashish Tiwari has not purchased any four wheeler, as committed by him, nor returned money, complainant made written complaint before concerned Police Station on 10.03.2021, based upon which instant crime has been registered against present Applicant and Ashish Tiwari.

3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri AN Pandey, learned counsel for the applicant would submit that from the contents of written complaint, it is apparent that all the allegations of making physical relationship and accepting money is against Ashish Tiwari, brother of present applicant. He submits hat only allegation in FIR is that present applicant has assisted co-accused and one more allegation that present applicant has given phone call to complainant for giving money to Ashish Tiwari. These allegations are false, only to make pressure upon applicant. He submits that complainant is a major lady, aged about 35 years, working in PWD Ambikapur as Peon. She is well aware of pros and cons with regard to physical relationship with co-accused. There is no allegation of making physical relationship or any direct involvement of present applicant,

hence present applicant may be enlarged on bail under Section 438 of CrPC.

5. On the other hand, Shri BP Banjare, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that present applicant is brother of main accused Ashish Tiwari. Allegation of making physical relationship on the pretext of marriage and also accepting money for purpose of purchasing Scorpio vehicle is against Ashish Tiwari. He submits that in the statement recorded under Section 161 CrPC, allegation has been made that amount of Rs.1,50,000/- has been handed over to present applicant in presence of Shubham and Shabnam. Hence, there is direct involvement of applicant in commission of crime under Section 420 of IPC. However, he admits that in written report dated 10.03.2021, based upon which FIR was registered, there is no such allegation of accepting money by present applicant in presence of witnesses.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against the applicant in written complaint, making allegations against co-accused Ashish Tiwari of physical relationship and giving money to him, 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 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/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) 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;
- c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That the applicant shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma