

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 970 of 2021**

- Vikesh Chouhan S/o late Shri Natthulal Chouhan, aged 35 years, adhar card no. 397045065223, R/o 755 Vidhya Nagar, Distt. Korba Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Station House Officer Police Station Karpawand, Distt. Bastar, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Deverishi Thakur, Adv.
For Non-applicant- State	: Mr. B.P. Banjare, Dy. Govt. Adv.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****26/08/2021**

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. 43/2021 registered at Police Station Karpawand, District- Bastar (C.G.) for the offence punishable under Sections 374, 376(2)(n) of IPC.
2. Case of prosecution is that, applicant who was posted as Constable was in love affair with complainant who is relative of his brother's wife. On 04.01.2019 applicant came to her house and asked her to accompany him, upon which, complainant went along with applicant and stayed in a hotel at Raipur where applicant established forceful intercourse with her on 06.01.2019 and thereafter the applicant took the complainant to his place of posting at Bastar and there they resided together till 20.01.2020, where also applicant made forceful relationship with her. When the complainant pressurized him to marry her, applicant took her to one temple and performed marriage and mentioned the wrong fact that he divorced his earlier wife but the complainant later revealed that the statement made by the applicant was false when the first wife of applicant came to

Jagdalpur. Thereafter, written report was lodged. Based on the written report FIR was registered against the present applicant.

3. Mr. Deverishi Thakur, learned counsel for the applicant would submit that the allegations levelled against the present applicant are false and frivolous. Complainant is relative of his brother's wife, she is known to the family members and also the first wife of applicant. She is aged about 28 years and as she was in love affair with the applicant, she came into the company of applicant and started residing at the place of posting of applicant at Bastar as husband and wife. Based on the complaint made by the first wife before superior authority, one departmental enquiry was initiated against applicant in which complainant was also examined as one of the witnesses wherein she admitted that she was having the relationship with family of applicant and further the applicant's brother was also examined in the departmental enquiry proceedings who also stated that the complainant was known to his family members as she is relative of his wife. The allegation that the applicant has made wrong statement of divorced with his first wife is false. He submits that when the complainant was known to the wife of applicant as per the statement recorded in the departmental enquiry but she has not made any attempt to clarify the position either from the first wife of the applicant or his family members which itself shows that the allegation levelled is false and frivolous. He submits that the offence as alleged against the present applicant would not be made out in the facts of the case, hence, he may be enlarged on anticipatory bail.
4. On the other hand, Mr. B.P. Banjare, learned State counsel opposes the submissions made by learned counsel for the applicant, he read-over the contents of FIR and the statements recorded under Section 164 of CrPC in his support.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration, the nature of allegation, the documents of departmental enquiry placed on record along with covering memo wherein the statements of Dinesh Chouhan, brother of applicant and the complainant herself were recorded by the enquiry officer who is none other than Additional Superintendent of Police, Bastar,

without commenting anything on merits of the case, I am inclined to allow the bail application.

7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (43/2021), 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