

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1019 of 2021**

- Abhay Das S/o Indranath Das, Aged 33 Years, Resident of Village - Mahadevdand (Kuraru), Police Station & Tahsil Bagicha, District Jashpur (CG)

---- Applicant**Versus**

- State of Chhattisgarh through Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Non-applicant

For Applicant	:	Mr. Aman Upadhyay, Advocate
For Non-applicant	:	Mr. Roshan Dubey, Panel Lawyer
For Objector	:	Mr. Animesh Verma, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

21/9/2021

1. This is first application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.144/2021 registered at Police Station Bagicha, District Jashpur (CG) for commission of offence punishable under Sections 363, 366, 376 (2) (n) of the Indian Penal Code and Sections 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the prosecutrix lodged written report on 23.07.2021 stating therein that the applicant was a teacher in Government Higher Secondary School, Mahadevdand, prosecutrix being student of that school was pursuing her studies of Class XI in the year 2011. From that time applicant on the pretext of marriage established physical relationship with her which continued till 11.07.2021. Further allegation is that when prosecutrix went to Ambikapur for further studies thereafter, to Delhi to work there also applicant visited and established physical relationship with her on the false pretext of marriage. On 10.07.2021 prosecutrix came to Bilaspur from Delhi, applicant received her at Bilaspur, took her to a hotel and thereafter took the prosecutrix to house

at Mahadevdand and kept her. On 17.07.2021 wife of applicant came there, objected her stay, called the elder members of the village including Sarpanch and Secretary and thereafter, she left the place. After discussion with her family member lodged written report. Based on the written report above mentioned offences are registered against applicant.

3. Mr. Aman Upadhyay, learned counsel for applicant submits that prosecutrix as on date is 25 years old, she is working at Delhi, false and frivolous allegations have been levelled against applicant of making physical relationship when she was minor and pursuing her studies of class XI. As per allegation applicant made physical relationship with her on the pretext of marriage in the year 2011, whereas documents placed on record as Annexure A/6, admission register of the school shows that prosecutrix took admission in class XI on 29.06.2012 which shows that allegation of making physical relationship with complainant in the year 2011 to be false. He further contended that, further allegation that applicant established relationship with the prosecutrix while his stay in the house of her aunt as tenant is also not correct. Applicant and his wife were posted in the same school as teacher where the prosecutrix took admission in the year 2012 (documents are placed on record). Applicant married with Abha Minj and after their marriage they resided in the house of aunt of prosecutrix as tenant. At the time of marriage of applicant with Abha Minj, applicant executed an affidavit before Notary in the year 2011 which is filed as Annexure A/4. From the wedlock they were blessed with a child on 25.03.2012, marriage and the birth of child is during his stay in the rented accommodation of aunt of prosecutrix. Offence registered under Sections 363, 366 of IPC is also not made out in view of the allegation appearing in F.I.R. Prosecutrix is a major lady and only to implicate the applicant in grave crime has made allegation of making physical relationship since 2011 when she was minor. Applicant is a Government Teacher hence he

may be enlarged on anticipatory bail.

4. Mr. Roshan Dubey, learned State Counsel as well as Mr. Animesh Verma, learned counsel for the Objector, submits that in F.I.R. specific allegations have been levelled by prosecutrix that the applicant who is a teacher in school where prosecutrix was student, established physical relationship when she was minor aged about 16 years only. It is further submitted that as per contents of F.I.R. and the complaint lodged by the prosecutrix there are allegations that applicant since 2011, continuously established physical relationship with the prosecutrix till July, 2021. Applicant received prosecutrix at Bilaspur when she returned from Delhi and then also he committed sexual intercourse with her. Applicant kept prosecutrix in his own house till his wife objected and called elder members of village including Sarpanch and Secretary. Prosecutrix came to know about marriage of applicant in 2021. Mr. Animesh Verma, submits that prosecutrix transferred money from her account in the bank account of applicant on several occasions total of which comes to more than Rs.5 lakh. The amount transferred was earning of prosecutrix. He submits that in view of the nature of allegations levelled against the applicant he is not entitled for benefit under Section 438 of Cr.P.C.
5. At this stage Mr. Upadhyay, learned counsel for applicant refers Annexure A/7 which is Panchnama prepared by the villagers and stated that in Panchnama it is recorded that when prosecutrix was in house of applicant number of boys were also present in night in intoxicated condition which shows that the allegations against the applicant are false and frivolous.
6. I have heard learned counsel for the parties.
7. Taking into consideration nature of allegation, age of prosecutrix on the date of lodging of report to be about 25 years, facts and circumstances of case as also the applicant,

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

8. Accordingly, application filed under Section 438 of CrPC for grant of anticipatory bail is allowed. It is directed that in the event of arrest of applicant in connection with 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 Arresting Officer. Applicant shall also abide by the following conditions :

- (i) that he shall make himself available for interrogation before 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 the trial.

Sd/-
(Parth Prateem Sahu)
Judge

pawan/-