

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1111 of 2021**

Dr. Nikhil John Elenjickal S/o Dr. John E. Joseph, Aged About 31 Years, Presently R/o Flat 2003, Solitaire Building, Opp. Mahim Station, Mahim West, Maumbai (Maharashtra).

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Gudhiyari, Raipur District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Sushil Dubey, Advocate

For Non-applicant/State : Shri Sudhir Sahu, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****21.09.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.142 of 2021, registered at Police Station Gudhiyari, Raipur (C.G.), for offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution in brief, is that, prosecutrix lodged a written report on 18.06.2021 mentioning therein that she is working as Staff Nurse at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur. She came in contact with the applicant, who came to Hospital for pursuing his Post Graduation Degree. During his stay at Raipur, he stated to prosecutrix that he likes her and will marry her and thereafter, made physical relationship with her on number of occasions in her house. In the year 2018, applicant went to Mumbai for specialization in Nephrology. After 2018 also,

applicant as well as prosecutrix visited the place of resident of each other and stayed there as husband and wife. In March 2021 applicant stated her that he wants to breakup their relationship and to marry with the girl of his status, which made the prosecutrix to lodge report to concerned Police Station stating that she was cheated and sexually exploited by the applicant on the pretext of marriage.

3. Shri Sushil Dubey, learned counsel for the applicant would submit that prosecutrix is aged about 35 years and working as Staff Nurse at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur. He further submits that there was relationship between applicant and prosecutrix on the free will of prosecutrix herself. It is contended that applicant has placed on record several mobile chats which itself shows that applicant has not made any false statement or commitment to prosecutrix. It is further contended that prosecutrix is married lady, aged about 35 years and having a child, therefore, there was no question of performing marriage with prosecutrix as alleged by her in the complaint. The allegations are absolutely false and baseless. He further argued that applicant is working as Doctor at Mumbai, hence, he may be enlarged on anticipatory bail.
4. Per contra, Shri Sudhir Sahu, learned Panel Lawyer for the State opposing the submissions made by learned counsel for the applicant, would submit that in the written report as well as statement recorded under Section 161 and 164 of Cr.P.C. of prosecutrix, specific allegations have been levelled of sexual

exploitation on the pretext of marriage. As per allegations, applicant and prosecutrix are having physical relationship since 2017 till March 2021, hence, applicant is not entitled for the benefit under Section 438 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations levelled by the prosecutrix in the complaint, age of prosecutrix, further the fact that prosecutrix is married lady and having a child, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
7. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall be abide by the following conditions :-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) he 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 from disclosing such facts to the Court or to any police officer.

(iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh