

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 1094 of 2021

Devendra Kavi S/o Late Rudraman Kavi, Aged About 51 Years, R/o Village -
 Maalgaon, P.S -Nagarnar, Jagdalpur, Disttict - Bastar, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, P.S- Nagarnar,
 District - Bastar, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Manish Nigam, Advocate.
For State	: Mr. Sudhir Sahu, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

13/09/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.68/2021 registered at Police Station – Nagarnar, District - Bastar, (CG), for the offence punishable under Section 376 & 506 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 03.04.21 prosecutrix lodged a written report making allegation against applicant that he has made physical relationship with her on threat since last 5 years. When her husband suspected upon applicant, he stopped visiting her house. One day her husband called applicant and put some query, upon which he said to him that he has made physical relationship with his wife/prosecutrix since last 5 years. Thereafter, report was lodged based upon which, instant crime is registered against applicant.
3. Learned counsel for the applicant submits that as per allegation itself it is clear that prosecutrix is a married lady, physical relationship between applicant and prosecutrix was since last five years of the complaint. Report has been lodged only when their relationship came to the knowledge of husband of prosecutrix. The physical relationship between applicant and prosecutrix, if any, is consensual. Hence, offence alleged against applicant would not be made out. Applicant may be enlarged on anticipatory bail.

4. Learned State Counsel opposes the submissions made by learned counsel for applicant and submits that though physical relationship between applicant and prosecutrix as alleged was since last 5 years but that was under threat of killing child of prosecutrix. Hence, applicant is not entitled for grant of anticipatory bail.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, statements of prosecutrix recorded under Section 161 & 164 of Cr.P.C, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.
7. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions :
 - (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-