

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1124 of 2021**

Fabianus Tirkey S/o Sukhra Tirkey, Aged About 62 Years, R/o Kanya Parisar Road Gangapur Ambikapur Police Station Gandhi Nagar Tehsil Ambikapur District Surguja Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Mahila Thana Ambikapur District Surguja Chhattisgarh.

---- Non-applicant

For Applicant : Shri Nishi Kant Sinha, Advocate

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

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****16.09.2021**

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.60 of 2021, registered at Police Station Mahila Thana Ambikapur District Surguja (C.G.), for offence punishable under Sections 376 (2) (n) and 506 of Indian Penal Code.
2. Case of the prosecution in brief, is that, prosecutrix has lodged a written report stating that applicant projecting himself to be Director of Vestize Company, offered her to join his Company as an Agent and from where, she can earn more money. After joining of the prosecutrix with Company of applicant, he used to take the prosecutrix along with him whenever he visits outside the city and tried to establish physical relationship with her, which was

objected by the prosecutrix. On 05.10.2020, when applicant took prosecutrix out of the city, he took the prosecutrix in the house of his friend, where he committed forceful intercourse with her and further stated that he will marry her and also deposited money in her account. Further allegation is that after 05.10.2020, applicant established physical relations with her on number of occasions and also stated that he will perform marriage with her and keep her separately from his family, but subsequently, refused to marry her. Based on the complaint, instant crime was registered against the present applicant.

3. Shri Nishi Kant Sinha, learned counsel for the applicant would submit that applicant is aged about more than 60 years. He is retired Driver from All India Radio and now working as an Agent with Vestize Company for earning his livelihood and allegation levelled against is false and baseless. He further submits that on 05.07.2021, prosecutrix has sent notice through her Advocate and demanded Rs.20 Lacs as damages for making physical relationship with the prosecutrix, thereafter, prosecutrix has threatened him on mobile phone, which made the applicant to lodge a report to concerned Police Station on 22.08.2021. When prosecutrix came to know of lodging report against her, she thereafter lodged counter report making false allegation against the applicant on 24.08.2021. Copy of First Information Report registered against the prosecutrix on the complaint of applicant is filed as Annexure A/3 and copy of legal notice sent by prosecutrix is filed as Annexure A/2. It is contended that prosecutrix is a major

working lady of 35 years of age, hence, present applicant 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 there is allegation against the applicant that applicant committed forceful intercourse with the prosecutrix on 05.10.2020 and thereafter gave assurance of marriage, but subsequently, refused to marry her.
5. Upon putting specific query to learned counsel for the State with regard to further allegation in First Information Report, he submits that as per allegation, applicant has established physical relations with the prosecutrix on number of occasions after 05.10.2020 till 01.05.2021 and age of prosecutrix as mentioned in the First Information Report is 35 years.
6. I have heard learned counsel for the parties.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, age of the prosecutrix and applicant without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
8. 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