

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.1109 of 2021**

1. Gajendra Miri, S/o Shri Gopal Miri, aged about 30 years.
2. Avinash Miri, S/o Shri Gopal Miri, aged about 26 years.

Both R/o Bada Bazar, Janakpur Road, Takhatpur, PS & Tehsil
Takhatpur, District Bilaspur (CG)

Applicants**Versus**

- State of Chhattisgarh, through SHO, Police Station Takhatpur, District Bilaspur (CG)

---- Non-applicant

For Applicants	:	Mr. Vivek Sharma, Advocate
For Non-applicant	:	Mr. B.P. Banjare, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****14/9/2021**

1. This is first application under Section 438 of CrPC for grant of anticipatory bail to applicants who are apprehending their arrest in connection with Crime No.384/2021 registered against them at Police Station Takhatpur, District Bilaspur (CG) for commission of offence punishable under Sections 354, 354D, 341 r/w 34 of IPC.
2. Case of the prosecution, in brief, is that the complainant has lodged written complaint in the concerned police station on 29.8.2021 mentioning therein that applicants and co-accused used to make obscene comments on her whenever she used to go market, college or coaching. It is also alleged that an incident of assault took place with father of complainant on 3.1.2020 as a result he was admitted in Mahadeo Hospital, Bilaspur for treatment and at that time family members of applicants have given financial support of Rs.6,000/-, which was being misinterpreted by co-accused Ankit Agrawal and thereafter he started demanding sexual favour from complainant. Based on this written complaint, crime in

question is registered against applicants and co-accused Rakesh & Ankit Agrawal.

3. Mr. Vivek Sharma, learned counsel for applicants would submit that from the allegations contained in FIR it is apparent that allegation of demand of sexual favour is against co-accused Ankit Agrawal and not applicants. Allegation against applicants is of making obscene comments on complainant whenever she go out. He submits that there is no allegation of use of any criminal force against complainant with intent to outrage her modesty, hence offence under Section 354 of IPC would not be made out against applicants. The family members of applicants lodged report against complainant against demand of money to police station (Annexure A-2). He submits that though allegations levelled against applicants are false and baseless, but even if the same are taken as it is, then also the applicants, at the most, would be charged with offence under Section 354D of IPC, which is bailable in nature. Hence, applicants may be enlarged on anticipatory bail.
4. On the other hand, Mr. B.P. Banjare, learned Deputy Government Advocate for the State opposes the submissions made by learned counsel for applicants and submits that specific allegation with regard to passing of obscene comments on complainant by applicants and co-accused persons have been levelled in FIR. Applicants are anti-social elements; on the basis of application filed by concerned Station House Officer, the Superintendent of Police, Bilaspur has included name of applicant No.1- Gajendra Miri in the list of anti-social elements. As many as 13 criminal cases are registered against applicant No.1. Hence, the applicants are not entitled for grant of anticipatory bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration the entire facts and circumstance of case and nature of allegations levelled by complainant in FIR,

without commenting anything on merits of case, I am inclined to extend benefit of anticipatory bail to applicants.

7. Accordingly, application is allowed and it is directed that in the event of arrest of applicants in connection with crime in question, they shall be released on anticipatory bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. Applicants shall also abide by the following conditions:

- (i) that they shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the Court below on each and every date given to him by the said Court till final disposal of case.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-