

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1248 of 2021**

Ashish Chaware, Aged About 36 Years), S/o Banshi Lal Chaware (Father's name wrongly mention as Banshi Lali in the impugned order), R/o Ramdas Nagar, Behind Maharashtra Mandal, Tikrapara, P.S. City Kotwali, Bilaspur, District Bilaspur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through S.H.O. City Kotwali, Bilaspur, District Bilaspur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Hemant Gupta, Advocate

For Non-applicant/State : Shri Shrikant Kaushik, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****06.10.2021**

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.278 of 2021, registered at Police Station City Kotwali, Bilaspur, District Bilaspur (C.G.), for offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution in brief, is that, prosecutrix came in contact with applicant in the month of January 2020 in 36 Mall Bilaspur, thereafter, applicant followed her and asked for her mobile number, to which, she gave him and thereafter, they were in contact and started meeting. On 31.05.2021, applicant stating her that he will perform marriage with her, took her to Mahamaya Temple, Ratanpur. Due to COVID-19 pandemic, temple was

closed, applicant put vermilion on her head, put Mangalsutra on her neck and stated that he has performed marriage with her, brought to his house and lived like husband and wife. During this period, applicant established physical relationship on number of occasions, but subsequently on 08.07.2021, applicant left the prosecutrix stating that he is not interested in her. The incident was reported by submitting written report before concerned Police Station on 07.09.2021, based upon which, aforementioned crime is registered against the applicant.

3. Shri Hemant Gupta, learned counsel for the applicant would submit that applicant has not committed any offence as alleged against him. He further submits that complainant is a major girl, aged about 24 years. Earlier, she has lodged a report against one Hasan Jafri making similar allegation when she was less than 18 years of age. Based on the report, Crime No.200/2019 was registered against Hasan Jafri, which is still pending consideration before the Court of competent jurisdiction. Prosecutrix want to encash the friendly relationship of applicant and complainant, made an attempt for extorting money, which was reported to concerned Police Station on 26.08.2021. It is contended that report was sent through registered post and copy of postal receipt of registered post is annexed with bail application as Annexure A/2.
4. Per contra, Shri Shrikant Kaushik, learned Panel Lawyer representing the State opposing the submissions made by learned counsel for the applicant, would submit that in the written report,

prosecutrix has levelled serious allegations of establishing physical relationship with her by deceiving her that applicant has performed marriage. He read over the contents of First Information Report as well as statement of prosecutrix recorded under Section 164 of Cr.P.C. and submits that statement of aunt of applicant is also available in the case diary wherein she was informed by prosecutrix about her marriage with applicant. It is contended that in view of allegations, 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 against the applicant in First Information Report as well as statement recorded under Section 161 and 164 of Cr.P.C. of prosecutrix, age of prosecutrix and documents placed on record along with memo of bail application, 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