

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1103 of 2021**

- Ravikant Gupta S/o Gopal Prasad Gupta Aged About 60 Years
R/o 952/2 R.T.S. Colony Torwa, Tahsil and District Bilaspur,
(Chhattisgarh)

---- Appellant**Versus**

- State of Chhattisgarh Through The Police Station Torwa,
District Bilaspur (Chhattisgarh)

---- Respondent

For Appellant	:	Mr. Suresh Kumar Verma, Adv.
For State	:	Mr. Uddhav Sharam, G.A.

Hon'ble Smt Justice Rajani Dubey**Order on Board****18.11.2021**

1. This appeal is directed against order dated 08.09.2021 passed by the Additional Sessions Judge, F.T.C. Bilaspur (C.G.) under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act for grant of anticipatory bail.
2. The appellant is apprehending his arrest in connection with Crime No. 301/2021, registered at Police Station – Torwa, District Bilaspur (C.G.) for the offence punishable under Section 376 of the IPC and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. As per the prosecution case, the allegation against the appellant is that he has committed sexual intercourse with the prosecutrix on the pretext of marriage.
4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the case. He further submits that the alleged incident took place on 05.06.2018 and the offence has been registered on 02.08.2021. Thus, delay in lodging the FIR itself shows that a

false story has been cooked against the appellant. It is next contended that there was dispute between the parties regarding the demand of money by the prosecutrix, due to which she falsely implicated the appellant, therefore, the appellant may be granted anticipatory bail.

5. On the other hand, learned counsel for the state opposes the anticipatory bail application of the appellant.
6. I have heard learned counsel for the parties and perused the record.
7. The Co-ordinate Bench of this Court, in the matter of **Pavas Sharma Vs. State of Chhattisgarh and another (CRA No. 806/2020, order dated 22.01.2021)**, has elaborately dealt with the issue pertaining to offence under the Act, 1989 and finds that merely because offence under Section 3(2)(V) (a) of the Act, 1989 was registered against the applicant, learned court below rejected the application holding it to be not maintainable in view of the provisions contained under Section 18 of the Act of 1989, without taking into consideration the law laid down by the Supreme Court in the case of **Prathvi Raj Chouhan Vs. Union of India and Others**¹. Even though, offence under the Act of 1989 is registered, where application for grant of anticipatory bail is filed, the Court is required to apply its mind to the relevant provisions of law and considerations as specified by the Supreme Court in the case of **Prathvi** (supra) and if material on record leads to satisfaction that the complaint does not make out a prima facie case, for applicability of the provisions of the Act of 1989, the bar created under Section 18 of the Act of 1989 shall not apply and in appropriate cases of exceptional nature, benefit of anticipatory bail could be admitted to the applicant. The learned Court below committed patent illegality in mechanically rejecting the bail application. Order of rejection, therefore, cannot be sustained in law and, therefore, set aside.
8. After hearing counsel for the parties and considering the facts

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and circumstances of the case, age of the appellant/accused i.e. about 60 years and in view of the order passed by this Court in **Pavas** (supra), this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the appellant. Accordingly, the appeal is allowed. It is directed that in the event of arrest of the appellant in connection with aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/-, with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, with the following terms and conditions:

- (i) that the appellant shall make himself available for interrogation/medical test etc. before the concerned investigating officer as and when required;
- (ii) that the appellant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the appellant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the appellant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Rajani Dubey)
Judge

V/-