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**(2018) 03 CHH CK 0089**  
**In the Chhattisgarh High Court**  
**Case No : MCRCA No. 2 of 2018**

KAMLESH ( KOMLESH ) SAHU & ANR.

APPELLANT

Vs

STATE OF CHHATTISGARH

RESPONDENT

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**Date of Decision :** 20-03-2018

**Acts Referred:**

Code of Criminal Procedure, 1973 — Section 438  
Indian Penal Code, 1860 — Section 323, 363, 366(A), 376, 313, 506  
Protection of Children from Sexual Offences Act, 2012 — Section 4, 6

**Citation :** (2018) 03 CHH CK 0089

**Hon'ble Judges :** P. SAM KOSHY

**Bench :** Single Bench

**Advocate :** Sudeep Agrawal, Shashank Thakur

**Final Decision :** Disposed Of

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## Judgement

1. The present is an application filed under Section 438 of Cr.P.C. seeking for anticipatory bail to the applicants apprehending their arrest in

connection with Crime No. 507/2017 registered at Police Station Lormi, District Mungeli (C.G.) for the offence punishable under Sections 363,

366(A), 376, 313, 506 & 323 of I.P.C. and Sections 4 & 6 of POCSO Act.

2. The allegation against the present applicant is that, the main accused in the instant case is the son of the two applicants who is said to have had a physical

relationship with the complainant namely Sushma Kurre for more than two years and subsequently the complainant has filed the F.I.R. on 20/11/2017.

3. The counsel for the applicants submits that, the present applicants have been falsely implicated in the instant case and have been met only to put

pressure upon the main accused "Ajay Sahu" so that he marries the complainant/prosecutrix. He further submits that, the only allegation of the entire

complaint is read that is alleged against the present applicants are that of providing certain medicine to the prosecutrix which resulted in miscarriage.

He further submits that, the main accused-Ajay Shau in the instant case was prosecuted by the Juvenile Justice Board and he has been granted bail by

the Board. He further submits that considering the fact that except for the allegation of offence under Section 313, there is no other allegation

whatsoever against the present applicants in respect of other charges levelled against them and thus prayed for granting benefit of Anticipatory Bail to

the applicants.

4. The State counsel however opposing the bail application submits that, the fact that the present applicants had given certain medicine to the

prosecutrix which resulted in her miscarriage prima-facie establishes the offence under Section 313 and considering the gravity of the offence, the

applicants did not deserve bail at this juncture and thus prayed for rejection of the same.

5. Having heard the contentions put forth on either side and on perusal of record particularly keeping in view the fact that in her statement, the

complainant herself has stated that, in the past also she had consumed medicine for abortion, this Court is of the opinion that present is a fit case

where the applicants are entitled for benefit of Anticipatory Bail.

6. Accordingly, the application under Section 438 of Cr.P.C. is allowed. It is directed that in the event of arrest of the present Applicants in connection

with the aforesaid offence, they shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount 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 applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required;

(ii) that the applicants 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 the applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and

(iv) that the applicants shall appear before the trial Court on each and every date

given to them by the said Court till disposal of the trial.