

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 1214 /2015

Rajesh Tiwari, S/o. Rameshwar Tiwari, Aged About 30 Years, R/o. Village Jonki, Out Post Sakari, P.S. Chakarbhata, District Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through: Station House Officer, Police Station Takhatpur, District Bilaspur, Chhattisgarh

---- Respondents

For Applicant : Mr. Uttam Pandey, Advocate

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03/12/2015

1. Apprehending arrest in connection with Crime No.290/2015 registered at Police Station- Takhatpur, District Bilaspur (C.G.) for the offence punishable under Section 376 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, in brief, a report was made on 16.10.2015 by the prosecutrix that the marriage of the applicant was fixed with the prosecutrix and therefore on 15.04.2015 when the applicant approached her, she went alongwith him on the motorcycle and on the pretext that their marriage is fixed, sexual intercourse was committed but subsequently the marriage did not take place and therefore a report was made.
3. Learned counsel for the applicant submits that the marriage of the applicant was fixed alongwith the prosecutrix but for the some reason or other, the marriage could not took place and therefore an agreement was entered in between the parties on 23.09.2015 wherein it was agreed that till January, 2016, the marriage would be

solemnized between the parties. It is further submitted that subsequently a notice was sent by the applicant that the agreement so entered is not binding and consequently a report is made against the applicant on 16.10.2015 after service of notice; therefore, it is not a case of any forceful sexual intercourse and the applicant has been falsely implicated.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. The case diary contains initial report of 03.08.2015 wherein the report is made that the applicant has in the name of marriage sexually exploited the prosecutrix. The subsequent report dated 16.10.2015 is on record wherein it is also stated that on 15.04.2015 she was subjected to sexual intercourse. The statement under Section 164 also contains the similar allegation and taking into the fact that the offence is committed, I am not inclined to grant anticipatory bail to the applicant, as perusal of case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required. Consequently, I am not inclined to allow the application.
7. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge