

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC(A) No. 997 of 2015**

Ankit Balbhadra S/o Kishore Balbhadra Aged About 26 Years R/o
H.No. G-3, Sanjay Sarovar Colony, Near Rangras College,
Balaghat, District Balaghat (Madhya Pradesh)

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Kabir Nagar, Raipur, Tahsil And District Raipur (C.G.)
(Wrongly Mentioned As Tahsil And District Durg (C.G.))

For applicant – Shri Manoj Jain and Shri Varunendra Mishra , Advocates.
For Respondent/State – Shri Ashok Swarnkar, PL.

Hon'ble Shri Justice Goutam Bhaduri**Order****30/10/2015**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.73/2015, registered at Police Station Kabir Nagar, Raipur, District Raipur (C.G.) for offence punishable under Section 376 of IPC.
2. As per the prosecution case prosecutrix lodged a report at Police Station Nandanvan, Nagpur (Maharashtra) alleging that in the month of April she came to Durg. Thereafter, she went along with the applicant to Raipur. They came to know each other by chatting over face book. Subsequently, when she came to Raipur to meet applicant she was taken to a house wherein they had their meals. After having meals, she lost her conscious and the applicant committed sexual intercourse against her will and eventually a report was lodged at Nagpur on 10/07/2015.
3. Learned counsel for the applicant relied on the various conversation which has been made in between the prosecutrix and the applicant over phone and face and submits that the prosecutrix and applicant knew each other. The counsel went through the certain conversation in between the

prosecutrix and the applicant which has been enclosed herein so as to show that she was well in contact with the applicant. He further submits that both the prosecutrix and the applicant are major, therefore applicant may be enlarged on anticipatory bail as virtually no case is made out.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that statement under section 164 Cr.P.C. is recorded in this case wherein prosecutrix has categorically stated that she has been subjected to sexual intercourse against her will while she was not in her senses.

5. Statement under Section 161 and 164 of Cr.P.C. is perused. FIR is also perused with the help of Shri V.G. Tamaskar, Advocate. Perusal of the FIR, statement under Section 161 and 164 of Cr.P.C. shows that prosecutrix has categorically stated that she was administered something in food and thereafter when she lost her conscious, she was subjected to sexual intercourse. Considering the statement made, I am of opinion it is not a case where custodial interrogation may not be required. In the facts of this case, I am not inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE