

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1009 of 2015

Om Prakash Singh S/o Vijay Shankar Singh Aged About 22 Years R/o
Mitra Vihar Colony, P.S. Tarbahar, District Bilaspur (Chhattisgarh).

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate, Bilaspur
(Chhattisgarh).

---- Respondent

For applicant – Shri Rajeev Kumar Dubey, Advocate.
For Respondent/State – Shri Anant Bajpai, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/11/2015

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.262 of 2015, registered at Police Station Tarbahar, District Bilaspur (C.G.) for offence punishable under Section 493, 376 of IPC.
2. As per the prosecution case written report was lodged by Seema Saluja that applicant came in contact with her and thereafter he pretended to marry her and on that pretext has sexually exploited her. Subsequently, all of a sudden he stopped coming. During such period of stay sexual intercourse was committed.
3. Learned counsel for the applicant submits that prosecutrix is 35 years old lady and voluntarily she admitted herself and offence under

Section 493 of IPC cannot taken cognizance of unless complaint is preferred police could not take cognizance. He relied on the case law reported in **LAWS (MPH)-2011-12-31** in between **Mahesh Kumar Dhawan Vs. State of M.P.** He therefore submits that applicant may be enlarged on anticipatory bail.

4. Learned State counsel opposes the prayer for grant of anticipatory bail.

5. I have gone through the case diary and statement under Section 161 of Cr.P.C. and as also statement recorded under Section 164 of Cr.P.C. Reading of the statement under Section 164 of Cr.P.C. would show that applicant committed sexual intercourse as since he pretended he has married the prosecutrix and it is stated that by extending false promise sexual intercourse has been committed. Having regard to the statement of the prosecutrix it cannot be stated that no offence prima facie is made out against the applicant. Matter is still to be investigated, therefore I am not inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE

