

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1127 /2015

Ravishankar Sahu, S/o Rohit Kumar Sahu, Aged About 23 Years, R/o Village Singarpur, Police Station Suregaon Chowki Doundilohara, District Balod, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Police Station Suregaon Chowki, Balod, Chhattisgarh

---- Respondent

For Applicant : Mr. S.S.Baghel, Advocate.

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/12/2015

1. Apprehending arrest in connection with Crime No.45/2015 registered at Police Station- Suregaon Chowki, District Balod (C.G.) for the offence punishable under Section 376(f), 506(2) 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 story, in brief, a report was lodged by the prosecutrix that the applicant alongwith other co-accused namely Mukesh Thakur on 21.12.2014 at about 9 O'clock committed sexual intercourse with her for which a report was lodged on 15.09.2015 when the prosecutrix was pregnant and she was carrying 8 months pregnancy.
3. Learned counsel for the applicant submits that the applicant is posted as Sepoy in the Army at Shrinagar and on the date of alleged incident he boarded the Train on 20.12.2014 from Ambala and thereafter he reached Durg on 22.12.2014 in the morning and

thereafter he went to his house. He relied on the documents obtained under the R.T.I., which is placed on record and would submit that on the date of incident he was traveling, therefore, he has been falsely implicated in this case. He further submits that the prosecutrix had affair with the co-accused Mukesh and consequently she became pregnant and there is delay of almost 9 ½ months in lodging the FIR; therefore the applicant may be enlarged on anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail and he would submit that according to the statement of the prosecutrix, the applicant had committed forceful sexual intercourse with the prosecutrix on 21.12.2014.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. I have gone through the case diary and the charge sheet wherein it shows that specific date has been mentioned by the prosecutrix that on 21.12.2014 at about 9 O'clock rape was committed by the applicant with her and it is alleged that she was called by one co-accused namely Mukesh and when she went out, rape was committed on her by both the accused. The written report is also perused wherein specific date of incident i.e. 21.12.2014 is shown. Considering it with the documents received under the R.T.I. from the Railway, it would show that the applicant was traveling on that date. Therefore, taking into these fact and further the delay caused in lodging the FIR and specific date of incident is mentioned as 21.12.2014, prima facie, it appears that the applicant was traveling, I am inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge