

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 232 /2016

Monoj Singh Thakur, S/o. Pratap Singh Thakur, Aged About 30 Years,
Caste - Rajput, R/o. Village Dumariya, Post Ranvirpur, Tahsil & P.S. -
Lohara, District Kabirdham, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. - Than
Khamariya, District – Bemetara, Chhattisgarh

---- Respondent

For Applicant : Mr. B.P.Singh, Advocate.

For Respondent : Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18/04/2016

1. Apprehending arrest in connection with Crime No.03/2016 registered at Police Station- Than Khamariya, District Bemetara (C.G.) for the offence punishable under Section 450, 506, 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, a report was made by the prosecutrix on 03.01.2016 that the applicant on 07.12.2015 entered into her house and thereafter committed forceful sexual intercourse; thereby the offence has been committed.
3. Learned counsel for the applicant submits that the prosecutrix had earlier lodged two report first on 19.04.2015 and again on 03.08.2015 against the wife of the applicant for the incident happened on 27.07.2015 wherein it is alleged that the wife of the applicant has assaulted her because she used to doubt the integrity

of the relation of the prosecutrix with her husband. He further submits that thereafter the wife of the applicant had filed a criminal complaint as per Annexure A-4, therefore, taking into the report and counter report, it cannot be assumed that the applicant would commit the offence in such way since the report was made by the prosecutrix against the wife of the applicant. It is further submitted that the prosecutrix is aged about 27-28 years and consequently the rape in any case, it cannot be a rape. He relied on the SMS sent by the prosecutrix and would submit that they were in relation which was objected by the wife and consequently the report was made by the wife of the prosecutrix and 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 would submit that as per the direction, the detailed SMS report has been verified and the Mobile No. 7697817841 is stated to be of one Santosh, resident of Guna (M.P.) and as per the prosecutrix she was not using such mobile number, therefore, the bail application of the applicant may be rejected.
5. Perused the case diary and the report. Prima facie it shows that the prosecutrix has initially lodged a report against the wife of the applicant on 19.04.2015 and 27.07.2015 that she objected to the relation of the applicant with the prosecutrix. Subsequently, the wife of the applicant has filed a criminal complaint against the prosecutrix under Section 294, 323, 341, 506 of IPC. The call detail report is also enclosed which shows that most of the calls were made in the vicinity of Than Khamariya, Tahsil Saja, District Durg and Village Ranvirpur. Therefore, considering the allegations and the report made by the prosecutrix against the wife of the applicant

and taking into totality of the case, I am of the opinion that this is a fit case to enlarge the applicant on anticipatory bail.

6. Accordingly, the anticipatory bail application is allowed. 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