

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A) No. 295 of 2016

1. Khemraj Chaudhari, S/o. Shri Loknath Chaudhari, aged about 24 years, By Caste-Aghariya, R/o. Village-Kasahibahra, Thana and Tahsil-Pithora Civil and Revenue Distt. - Mahasamund (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, through : Station House Officer, Police Station-Pithora, Civil and Revenue Distt. - Mahasamund (C.G.)

---- Respondent

For Applicant : Mr. Sunil Sahu, Advocate

For Respondent/State : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

22/03/2016

1. Apprehending arrest in connection with Crime No.33/2016 registered at Police Station- Pithora, District – Mahasamund (C.G.), for offence punishable under Section 376 of Indian Penal Code and Section 3 (2) (V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, the applicant on the pretext of marriage had committed sexual intercourse with the prosecutrix from a period of September, 2015 to February, 2016. Subsequently, when the applicant was asked to perform marriage, in a meeting, he refused to marry with the prosecutrix. Thereby the offence has been committed.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in this case. He would further submit that the

prosecutrix is a major lady of 25 years and she of her own developed the physical relation with the applicant and there was no force was applied. Therefore, the counsel submits that the applicant may be extended the benefit of anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of bail .
5. Perused the statement of the prosecutrix. The prosecutrix in her statement has stated that the applicant on the pretext of marriage has committed sexual intercourse. It is further stated by one witness namely Laxman Gilhare, who is brother-in-law of the prosecutrix that when meeting was held in the village, in a meeting the applicant refused to marry with the prosecutrix, however, the applicant admitted that on the promise of marriage, he has committed sexual intercourse. Taking into such statement, prima-facie it appears from day one, the applicant did not have any intention to perform the marriage and committed sexual intercourse and thereby obtained the consent. Taking into the statement of the prosecutrix and other witness, this Court is not inclined to extend the benefit of Section 438 to the applicant.
6. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge