

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 380 of 2016

Abhishek Micheal S/o Yarmiyah Micheal Aged About 28 Years R/o
Village - Jyotipur, Pendra Road, Police Station - Gaurella, Tahsil -
Pendra Road, District - Bilaspur Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : The Police Station House Gaurella,
District - Bilaspur Chhattisgarh (Wrongly Mentioned In Cause Title
As a District - Mungeli Chhattisgarh

---- Respondent

For applicant – Shri Ashok Soni, Advocate.
For objector – Shri Achyut Tiwari, Advocate.
For Respondent/State –Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

22/04/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 100/2016 registered at Police Station- Police Station House Gaurella, District Bilaspur (C.G.) (wrongly mentioned in cause title as a District Mungeli) for offence punishable under Sections 376 of the Indian Penal Code and 3 (1) (12), 3 (2) (5) of S.C. S.T. Prevention of Atrocities Act.

2. As per the prosecution case a report was made by the prosecutrix that the applicant is a student and she used to teach him english and during such period at some point of time one day he forcefully took the prosecutrix to a place and thereafter committed sexual intercourse on the ground that he will marry prosecutrix and the same relation continued. Thereafter, one report was made, however that report was withdrawn and again she started living along with the applicant and till 20/03/2016 physical relation were developed and on 20/03/2016 the prosecutrix was forced to leave house of the applicant.

3. Learned counsel for the applicant submits that false allegations have been attributed against this applicant as the applicant and the prosecutrix were in live-in relationship for some time and physical relation were developed with the consent of the prosecutrix who was a major lady of 25 years and it is stated that she was living along with the applicant. Subsequently, dispute arose and false report was made.

4. Learned State counsel and counsel for the objector vehemently opposes the prayer for grant of bail. It is submitted by learned counsel for the objector that certain photographs were taken by the applicant and certain blank papers and stamp papers were also obtained by the applicant and he may misuse the same for which a report has already been made.

5. I have perused the report and the statement of the prosecutrix wherein it is stated that applicant was studying and one day applicant committed forcefull sexual intercourse on the pretext of marriage and same continued. Thereafter, according to the report she stayed along with the applicant for some time and after 20/03/2016 she was forced to leave the house of the applicant. Perusal of the statement and the report would show that offence sought to be committed is not for reason or on the ground victim belongs to particular caste. The preamble of the Act provides that "The Act has been enacted to prevent the commission of the offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes. The expression 'atrocities' is defined in Section 2(1)(a) of the special Act to mean an offence punishable under Section 3. This definition of the word "atrocities" used by the legislature in clause (a) of sub-section (1) of section 2 explains the atrocity in a very few words simply saying "means an offence punishable u/s 3" of the said Act. Therefore, in

a case like this, sine qua non for application of provisions of the Atrocities Act of 1989 an offence must have been committed against a person on the ground that such person is a member of Scheduled Castes or Scheduled Tribes, that is to say, that if the offence is not committed on the ground or for the reason that the victim belongs to the Scheduled Castes or Scheduled Tribes, the provisions of Act would not be attracted and if the evidence of this nature is lacking in any case and the victim, by chance, happens to be the member of Scheduled Caste or Scheduled Tribe, merely on this ground the aforesaid provisions would not be attracted in addition to the provisions of the IPC.

6. Perusal of the statement would show that victim herself has stated that she was in relation with the applicant for certain point of time. Considering the statement and also for the fact that the prosecutrix being major lady, I am inclined to extend benefit of anticipatory bail to the applicant.

7. Accordingly, the anticipatory bail application is allowed and 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 executing a personal bond in sum of Rs.25,000/- with one local 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) 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