

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1344 of 2015

- Nawab @ Aftab Aalam S/o Abdul Sattar Aged About 48 Years (Mentioned As Nawab In The Rejection Order) R/o Near Rumi Baba Mazaar, Kelabadi, Durg, Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh Through Police Station Durg, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Arvind Singh, Advocate.
For the Respondent	:	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.03.2016

1. Apprehending arrest in connection with Crime No. 850/2015 registered at Police Station Durg Distt. Durg (C.G) for the offences punishable under section 376 & 506 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was lodged by one Nahid Saba that the applicant has forcibly committed sexual intercourse with her and a report was made. As per the prosecution, sister of Nahid Saba namely Sonam was living along with Nawab @ Aftab Aalam, the applicant. The said girl Sonam had lodged a report against Nisar Ali, her father and Athar Husain, the husband of Nahid Saba (who is prosecutrix in this Crime number) of forceful rape against those two accused. It is further case of the prosecutrix that in order to settle the case, the applicant one day came to the house of prosecutrix since the sister of prosecutrix namely Sonam was living with this

applicant and found the prosecutrix alone at her house and committed rape.

3. Learned counsel for the applicant submits that the sister of Nahid Saba namely Sonam was given shelter by this applicant as she has lodged report of rape against her father Nisar ali and Athar Husain. He submits that Athar Husain is husband of Nahid Saba, the present prosecutrix. It is further stated that since the applicant has given shelter to Sonam who has lodged report for commission of rape against the husband of prosecutrix, false allegations have been made against the applicant. It is contended that certain SMS were made from the Mobile of prosecutrix to this applicant wherein she admitted the fact that she has lodged the false report, therefore, he would submit that it is a case of false implication and the applicant may be enlarged on bail.
4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. The details of SMS have been placed on record which purported to be sent from the Mobile Phone of Nahid Saba, the prosecutrix. Earlier, the State counsel was directed to enquire as to whether such SMS were made from the Mobile of Nahid Saba. The enquiry report has come which shows that the SMS calls were made from the Mobile of Nahid Saba. However, the same has been denied by the prosecutrix in her statement. The report appears to be made after two months.
6. Perused the statement of prosecutrix also u/s 161 Cr.P.C., The report of SMS made from the mobile of Nahid Saba shows that she was under pressure to make the report which is apparent from the SMS made from mobile Phone of Nahid Saba.
7. Taking into such facts and the statement of prosecutrix and the

way in which the offence is alleged to have been committed and different SMS which have been made from the mobile of prosecutrix, I am inclined to allow this bail application.

8. Accordingly, the 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 his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer.

The applicant shall also abide by the following conditions :-

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

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE