

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1375 /2015

Vishwajeet Kushwaha, S/o. Laljeet Kushwaha, Aged About 24 Years, R/o.
Ward No. 12, Manendragarh, Distt. Korea, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, P.S.
Manendragarh, Distt. Korea, Chhattisgarh (wrongly mentioned as P.S.
Khadgawa in C.C.)

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.

For Respondent : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/02/2016

1. Apprehending arrest in connection with Crime No.232/2015 registered at Police Station- Manendragarh, District Korea (C.G.) for the offence punishable under Section 458, 294, 506, 34 of IPC, 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, the applicant on 04.10.2015 went to the house of the complainant Asgari Begam and thereafter broke open the lock and asked for her son Imran and thereafter Asgari Begam was manhandled, thereby the offence is committed.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case for the reason that the sister of the applicant Sakshi Kushwaha was abducted and was subjected to forceful rape and while she was abducted at one point of time she was with the boy Imran, she could manage to call her brother,

the applicant, to rescue her and at that time the applicant came to the house of the complainant and enquired about Imran and since the report was already made by the sister of the applicant as she was subjected to blackmail to upload the obscene picture in the internet and on that count she was subjected to forceful sexual intercourse, the counter report is being made just to dilute the report. He further submits that the sections chargeable are bailable except Section 458 and therefore, he may be enlarged on anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the FIR which is filed alongwith the bail application as Annexure A-2, which was made by the sister of the applicant wherein it is alleged that the sister of the applicant was abducted and also she made a report to Mahila Aayog. Perused the copy of news paper clipping. Taking into the fact and the documents of this case, the allegations appears to be in counter blast, therefore, taking into such facts, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C to the applicant.
6. Accordingly, the anticipatory bail application is allowed.
7. 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