

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 39 of 2016

1. Amit @ Chhotu Yadav, S/o. Shri Brijlal Yadav, aged about 25 years, R/o. Raipura, P.S. - D.D. Nagar, District – Raipur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Police Station – D.D. Nagar, District – Raipur (C.G.)

---- Respondent

For Applicant : Mr. N.Naha Roy, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/02/2016

1. Apprehending arrest in connection with Crime No.138/2015 registered at Police Station- D.D. Nagar, District – Raipur (C.G.), for offence punishable under Section 363, 366, 376, 506 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, on 03.07.2015, the applicant on the pretext of marriage took away the prosecutrix from the lawful guardianship of her mother and father and committed sexual intercourse and subsequently refused to marry with her.
3. Learned counsel for the applicant would submit that the same prosecutrix on the earlier occasion had made similar report, wherein detailed trial was conducted and the applicant was acquitted in the Sessions Trial No.248/2014 on 31.03.2015 by Annexure A/2 and in the earlier case, she has not supported her version and the Court even if evaluating the entire evidence acquitted the applicant and again similar nature of offence has

been made that on 03.07.2015, she was subjected to similar kind of sexual assault. He would further submit that the applicant has been falsely implicated, therefore, the counsel prays that the applicant may be extended the benefit of anticipatory bail.

4. On the other hand, learned State counsel opposes the bail application.
5. Perused the documents i.e. the acquittal order dated 31.03.2015 as also the statement of the prosecutrix. The prosecutrix is the same, who had made earlier kind of report on 31.08.2014 and the Court after evaluating the evidence acquitted the applicant and thereafter again a report is made on 01.08.2015. Taking into the background of this case and the conduct of the prosecutrix, which prima-facie appears to be variably, the false accusation can not be ruled out. Therefore, this Court is inclined to extend the benefit of anticipatory bail to the applicant, as no custodial interrogation may be required in this case.
6. 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 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