

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 168 /2016

Ritesh Mahant, S/o. Gandaray, Aged About 31 Years, Caste Panika, R/o. Village Dipka Colony, P.S. Dipka, Tahsil Katghora, District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : the Station House Officer, Police Station Dipka, District Korba, Chhattisgarh

---- Respondent

For Applicant : Mr. Govind Ram Miri with Mr. Basant Kaiwartya, Advocates.

For Respondent : Mr. Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

29/02/2016

1. Apprehending arrest in connection with Crime No.114/2015 registered at Police Station- Dipka, District Korba (C.G.) for the offence punishable under Section 376 & 323 of Indian Penal Code, 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 case, the prosecutrix who was the widow lady, the applicant assured her for marriage and thereafter committed forceful sexual intercourse with her and thereby the offence has been committed.
3. Learned counsel for the applicant submits that the prosecutrix with her full knowledge that she was a widow lady was a consenting party to the sexual relation and when the applicant was to be married, the report was made. It is further submitted

that the applicant and the prosecutrix were related to each other; therefore, considering the facts, it cannot be stated that the forceful sexual intercourse is committed and, as such, the applicant may be enlarged on anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the written report of the victim/prosecutrix wherein she has alleged that on two occasions she was subjected to forceful sexual intercourse on 15.09.2015 & 19.09.2015 and prior to that also and subsequently, the report was made on 12.10.2015. It was stated that she was a widow lady and the applicant is her Nephew; therefore, considering the report and the statement made, without any observation on merit, I am inclined to release the applicant on anticipatory bail.
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

Ashok