

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 362 of 2016

Gourav Dey S/o Sadhucharan Dey Aged About 39 Years Caste
Kayastha, R/o Village Dhoundai, P.S. Dhoundai, District Narayanpur
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : The Station House Officer, Police
Station Dhoundai, District Narayanpur Chhattisgarh

---- Respondent

For applicant – Shri Mukesh Shrivastava, Advocate.
For Respondent/State –Shri Arvind Shukla, PL.

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. 12/2014 registered at Police Station- Dhoundai, District Narayanpur (C.G.) for offence punishable under Sections 452, 354, 509 & 506 of the Indian Penal Code and Section 8 of POCSO Act.
2. As per the prosecution case initially charge sheet was filed against the applicant on 12/11/2014 under Section 452, 354, 509 and 506 of IPC and thereafter charges were framed on 27/12/2014. During course of argument some documents were filed and the prosecution on the basis of date of birth of the victim which was said to be 26/06/97 considering it with the date of FIR 11/10/2014 found that victim is below age of 18 years and therefore it would attract Section 8 of the POCSO Act and further directed that the entire charge sheet be returned and be re-submitted after addition of Section 8 of POCSO Act
3. Learned counsel for the applicant submits that applicant was initially arrested and he was in custody for 2 ½ months and was granted

bail by the court below and was appearing before the court regularly. It is further submitted that all of a sudden without any rhyme or reason such document have been filed wherein CJM has directed to return entire charge sheet with addition of Section 8 of the POCSO Act and further submit before competent sessions court. Learned counsel submits that applicant has been falsely implicated and nature of allegations also do not attract the case against the applicant and he may be enlarged on bail as he has not misused the liberty.

4. Learned State counsel opposes the prayer for grant of bail.

5. I have perused the case diary and the statement of the prosecutrix wherein it is stated that applicant tried to caught hold of the hand of the victim and stated that he would marry. Considering the statement of the prosecutrix and the fact that applicant was arrested and was granted bail and was appearing regularly before the court, further the court found that under the facts to make addition of section 8 of POCSO Act. Taking into totality and considering the circumstances of the case and fact that the applicant has not misused the liberty, I am inclined to extend benefit of anticipatory bail to the applicant.

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 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