

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 447 of 2016

1. Sukhen Chandraker, S/o Sukhdev Chandraker Aged About 43 Years R/o Village Naroли, Police Station Kunda, Tahsil & District Kabirdham, Chhattisgarh.
2. Suresh S/o Sukhdev Chandraker Aged About 38 Years R/o Village Naroли, Police Station Kunda, Tahsil & District Kabirdham, Chhattisgarh. --- **Petitioners**

Versus

- State of Chhattisgarh Through The Police Station Kunda, Kabirdham, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Somnath Verma, Advocate.
For the Respondent	:	Mr. Sumeet Jhawar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.06.2016

1. Apprehending arrest in connection with Crime No. 42 of 2016 registered at Police Station Kunda, Distt.Kabirdham (C.G) for the offences punishable under section 376, 506/34 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, on 18.03.2016 when the prosecutrix went out of house to answer the call of nature, she was caught hold of by applicants Suresh and Sukhen and was subjected to forcible sexual intercourse by applicant Sukhen Chandraker.
3. Learned counsel for the applicant submits that the applicants have been falsely implicated in this case since prior to the incident, the applicants have made report against the husband of prosecutrix Santosh on

05.03.2016 on which a case was registered u/ss 107, 116(3) Cr.P.C., and he was arrested and as a counter blast to it, the prosecutrix has filed the instant report against the applicants. He further submits that false allegations of rape have been made which are not corroborated by the medical report, therefore, the applicant may be enlarged on bail.

4. Per contra, learned State Counsel opposes the prayer for grant of anticipatory bail.
5. Perused the statement of prosecutrix wherein she has stated that she was subjected to rape and the report was made on the next date i.e., 19.03.2016.
6. Taking into statement of the prosecutrix, it is not a case where the benefit of section 438 cr.P.C., can be extended to the applicants. Accordingly, this anticipatory bail application is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**