

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 580 of 2016

- Dr. Ramsharan Yadav S/o Chandrahas Yadav Aged About 28 Years R/o Motinagar, Godawari Nagar, Boriyakhurd, Police Station - Tikrapara, District - Raipur Chhattisgarh
----- **Petitioner**

Versus

- The State Of Chhattisgarh Through - Police Station - Gariyaband, District - Gariyaband Chhattisgarh ---
Respondent

For the applicant	:	Mr. D. K. Gwalre, Advocate.
For the Respondent	:	Mr. Anant Bajpai, P.L.,

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.08.2016

1. Apprehending arrest in connection with Crime No. 68/2016 registered at Police Station Gariyaband, Distt. Gariyaband(C.G) for the offences punishable under section 376(2)(n) of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 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, the applicant was running a dental clinic in Gariyaband. A report was lodged by the victim prosecutrix that she used to work as Assistant in the clinic of the applicant and the applicant stated that he wanted to marry with the victim and on such pretext has committed sexual intercourse with her, however, ultimately refused to marry. Therefore, the offence was reported.

3. Learned counsel for the applicant submits that the applicant in fact has been black-mailed by the victim as she was working in the clinic of the applicant and she used to demand money many a time which was given and subsequently when frequent demands of money was increased and the prosecutrix was frequently absent from her duty, at that time, the applicant sacked the prosecutrix from service which has resulted into filing of the report. He further submits that on 22.03.2016 the applicant made a report to the Superintendent of Police that he is subjected to blackmailing by the complainant, however, nothing was transpired. He placed reliance on a decision of the Delhi High Court rendered in *CRL.A.No.135/2014 – Hari Mohan Sharma Vs. State of NCT of Delhi*, decided on 07.01.2016 and would submit that even if such promise is extended, it would not amount to commission of rape and the victim being major she was a consenting party. He also placed reliance in 2007 (2) C.G.L.J. 362 *Rajkumar Agrawal Vs. State of C.G.* & 2003(2) C.G.L.J. 168 *Somesh Das Vs. state of C.G.*, and would submit that the bar of section 18 of the Special Act would not apply in this case as accusation of commission of offence does not come within the purview of the Act, therefore, the applicant may be enlarged on anticipatory bail.
4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement of the victim wherein it is stated that on the pretext of marriage, she was subjected to physical exploitation and ultimately the

applicant refused to marry.

6. Considering such statement and report of the prosecutrix I am of the opinion that it is not a case where the benefit of provisions of Section 438 Cr.P.C., can be extended to the applicant. Accordingly, this anticipatory bail application is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**

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