

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 721 /2016

Dr. Shashikumar, S/o. Dhaniram Jaysawal, Aged About 35 Years, R/o. Bhatgaon, Tahsil- Bilaigarh, Distt.- Baloda Bazar-Bhatapara, Chhattisgarh. At Present Community Health Center, Simga, District - Baloda Bazar – Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Kansabel, District- Jashpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sunil Tripathi, Advocate.
For Respondent : Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/08/2016

1. Apprehending arrest in connection with Crime No.126/2016 registered at Police Station- Kansabel, District Jashpur (C.G.) for the offence punishable under Section 376 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, a report was lodged by the prosecutrix that she came in contact with the applicant in the year 2007-08 through Facebook and entered into a friendship, thereafter, the relation continued which turned into physical relation from 2010-15 and the applicant accepted the prosecutrix as his wife by performing the marriage at Radhakrishna Mandir and promise to follow the rituals and subsequently when the applicant wanted to marry another girl, the report was made.
3. Learned counsel for the applicant would submit that the applicant and the prosecutrix both are literate and they stayed together for a

considerable period of time and she was a consenting party. On instruction, learned counsel for the applicant submits that the applicant is willing and ready to keep the prosecutrix with him and the prosecutrix since has refused to stay alongwith the applicant, the misunderstanding erupted and nature of allegation would not be construed within the definition of rape, therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary, documents & statements. Considering the case diary, documents and the period lapsed and further considering the fact that the applicant is ready and willing to keep the prosecutrix, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended 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 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