

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 722 of 2016**

- Bharat Lal Sahu S/O Anuj Ram Sahu Aged About 32 Years By Caste Teli, Occupation Agriculturist, R/O Village Mandalpara (Narkeli) Police Station & Tahsil Baikunthpur, District Korea Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Baikunthpur, District Korea Chhattisgarh.

---- Respondent

For Applicant : Mr. Pushpendra Kumar Patel, Advocate

For Respondent/State : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****10-08-2016**

1. This application under Section 438 of Cr.P.C has been filed by the applicant apprehending his arrest in connection with Crime No. 115 of 2016 registered at Police Station Baikunthpur, District Korea (CG) for offence punishable under Sections 342, 366 and 376 of the IPC.
2. Case of the prosecution, in brief, is that on 10-5-2016 a report was made that on 9-5-2016 prosecutrix and her husband while going to Bus-stand, stayed in the house of Ramesh Thakur, thereafter prosecutrix wanted to go to Kandora and her husband wanted to go to Kotna. The applicant was asked to leave the victim at Kandora. While going on motor-cycle near Mandalpara, wife was kept in captivity by the applicant and she was subjected to rape by the applicant and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that the victim was a consenting party and no offence of rape was committed, therefore, the applicant may be extended the benefit of anticipatory bail.
4. *Per contra*, learned State counsel opposes the bail application.
5. I have heard learned counsel for the parties.
6. Perused the case diary, documents and the statement of the victim recorded under Section 161 of the Cr.P.C., wherein positive allegations of rape have been made against the applicant.
7. Considering the facts and circumstances of the case, nature and gravity of the offence, the manner in which the aforesaid offence was committed and further considering the statement of the victim, I am of the considered opinion, *prima facie*, that it is not a fit case where benefit of anticipatory bail can be extended to the applicant.
8. Accordingly, the application filed under Section 438 of the Cr.P.C., for grant of anticipatory bail is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju