

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 12 of 2016**

Gulshan Patel S/o Balram Patel Aged About 21 Years R/o Village  
Jatagharra, P.S. Dhamdha, Civil & Rev. Distt. Durg, Chhattisgarh.

**---- Applicant**

**Versus**

State Of Chhattisgarh Through District Magistrate Durg, Distt. Durg,  
Chhattisgarh.

**---- Respondent**

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For applicant – Shri Amiyakant Tiwari, Advocate.  
For Respondent/State – Shri Arvind Shukla, PL.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**9/02/2016**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 470/2015 registered at Police Station Mohan Nagar Durg District Durg (C.G.) for offence punishable under Sections 376, 506, 34 of Indian Penal Code 1860 and Section 4 of Protection of Children from Sexual Offence Act 2012.
2. As per the prosecution case on 21/10/2015 the applicant took the prosecutrix on his Bolero car and while roaming around took the car on the bypass road and on the pretext of marriage committed sexual intercourse. The report was made on 28/10/2015. According to the FIR in the earlier occasion the applicant was inculpated in the case under Section 363, 366 and 376 of IPC and family members of the applicant pressurized the prosecutrix and thereafter she changed her statement and applicant was released on 15/10/2015. Thereafter, this offence was committed.
3. Learned counsel for the applicant submits that in the similar circumstances earlier criminal case was registered against the applicant

wherein in Sessions Trial No.76/2015 which is filed as Annexure A-2, applicant was discharged on the similar allegations and was acquitted and he was released on 15/10/2015 and it is highly improbable after release in similar type of offence, prosecutrix would accompany the applicant. He further referred to Annexure A-4 and submits that a report was made to the Senior Superintendent of Police wherein it was stated that on 24/11/2015 statement was made before the court under Section 164 of Cr.P.C. wherein she has stated that applicant has not done anything with the prosecutrix, therefore it is submitted that since in earlier case applicant was released and in similar type of case applicant is being inculpated again, therefore the applicant may be granted benefit of anticipatory bail.

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

5. I have perused the case diary, report and the statement under Section 164 of Cr.P.C. The Annexure A-2 is judgement of sessions trial dated 15/10/2015 wherein prosecutrix had made similar allegations wherein applicant was acquitted. Annexure A-4 is letter dated 30/11/2015 written to Senior Superintendent of Police by the prosecutrix wherein it is stated that she has not made any report against the applicant and re-affirmed the fact that she has made a statement on 24/11/2015 before court that no offence is committed by the applicant and affidavit also is enclosed which also supports the same. Statement under Section 164 of Cr.P.C. is perused wherein she has stated that nothing has been done by the applicant. After perusal of the case diary and other documents and taking into facts and statement collectively, 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