

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 908 of 2016

- Sunil Kumar Yadav S/O Shiv Narayan Yadav Aged About 28 Years R/O Village Nimbupur, Police Station Alinagar, District Chandauli (U.P.) Recently Residing At - Sanjay Nagar, Ring Road, Imliduggu Korba, Police Station Kotwali Korba, Tahsil & District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - Police Station Kotwali Korba, District Korba Chhattisgarh

---- Respondent

 For Applicant : Mr. Vimlesh Bajpai, Advocate
 For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate
 For Objector : Mr. Dharendra Mishra, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

29-09-2016

1. This application under Section 438 of Cr.P.C has been filed by the applicant apprehending his arrest in connection with Crime No. 278 of 2016 registered at Police Station Kotwali, Korba, District Korba (CG) for offence punishable under Section 376 of the IPC and Sections 3(2)(5) and 3(1)(12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act, 1989").
2. Case of the prosecution, in brief, is that on 24-12-2015 a report was made by the prosecutrix that on the pretext of marriage the applicant committed sexual intercourse with her. Subsequently, when the applicant was pressurized, he refused to marry her stating that he was already married to another girl and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the alleged incident is said to have taken place in the year 2013 and no allegations have been attributed to the applicant till 2015. When the applicant became

Surpunch of village Nimbupur, false allegations have been attributed to the applicant. He would further submit that the applicant has been falsely implicated in this case, therefore, the applicant may be granted benefit of anticipatory bail.

4. Per contra, Learned State counsel and counsel for the objector oppose the prayer for grant of anticipatory bail.
5. Learned State counsel would submit that charges under Sections 3 (2)(5) and 3 (1) (12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have also been made against the applicant. He would further submit that charge-sheet has been filed against the applicant and the applicant knowing fully well that the prosecutrix belongs to Scheduled Tribes, committed such offence and from the day one he does not want to marry the prosecutrix, therefore, he is not entitled to be extended the benefit of anticipatory bail.
6. I have heard learned counsel for the parties, perused the case diary and documents including the statement of the prosecutrix wherein positive allegations have been attributed to the applicant and offence under Section 3(2)(5) & 3 (1)(12) of the Act has been affirmed.
7. Considering the facts and circumstances of the case, nature and gravity of the offence and further considering the statement of the prosecutrix, I am of the considered opinion, *prima facie* that it is not a fit case where benefit of Section 438 of the Cr.P.C., can be extended to the applicant.
8. Accordingly, the anticipatory bail application is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju

