

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 914 of 2016**

- Basant Yadav S/O Chandramani Yadav Aged About 18 Years
Occupation - Student, R/O. - Student, R/O Ramnagar, Lailunga P/S
Lailunga & Tahsil - Lailunga, civil & Revenue District - Raigarh
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : Station House Officer Of The
Police Station - Lailunga, District - Raigarh Chhattisgarh

---- Respondent

For Applicant : Mr. Abishek Saraf, Advocate

For Respondent/State : Mr. Neeraj Kumar Sharma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****06-10-2016**

1. This application under Section 438 of Cr.P.C has been filed by the applicant apprehending his arrest in connection with Crime No. 144 of 2016 registered at Police Station Lailunga, District Raigarh (CG) for offence punishable under Section 363,366, 376 of the IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. As per prosecution case, a report was made by the victim girl that on 17-3-2016 while she was going to the house of her relative, at that time one Himanchal Yadav met her on the way and on his asking she along with him went on his motor-cycle and stayed in his house wherein on the pretext of marriage he committed sexual intercourse with her and thereafter he refused to marry her. It is further alleged that while she was kept in Bagicha in the house, the

victim was kept in captivity by the present applicant and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that no allegations have been attributed to the applicant and he has been falsely implicated in the case and the main allegations have been attributed to co-accused Himanchal Yadav, therefore, the applicant may be extended the benefit of anticipatory bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statement of the victim girl recorded under Section 161 and 164 of the Cr.P.C. wherein positive allegations have been attributed to the applicant.
7. Taking into consideration the facts and circumstances of the case, nature and gravity of the offence and further considering the statement of the victim girl and the role played by the applicant, I am of the considered opinion *prima facie* that 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 application filed by the applicant under Section 438 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju