

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 969 of 2016

- Santosh Gupta S/o Shri Nathuni Sao Aged About 40 Years
Occupation Electrician , R/o Mohalla Satipara, Police
Station & Tehsil Ambikapur Civil & Revenue District-
Surguja, Chhattisgarh. **--- Applicant**

Versus

- State of Chhattisgarh through Station House Officer,
Police Station Sadar Ambikapur, District- Surguja,
Chhattisgarh **--- Respondent**

For the applicant : Mr. Shakti Raj Sinha, Advocate.
For the State : Mr. Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26.10.2016

1. Apprehending arrest in connection with Crime No. 581 of 2016 registered at Police Station Sadar, Ambikapur, Distt. Surguja (C.G) for the offences punishable under Sections 376 & 506 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, a report was made by the prosecutrix on 23.08.2016 that on the allurements of marriage the applicant took her away to Delhi where he accommodated her in a room and there he committed sexual intercourse with her from 2.8.2016 to 4.08.2016 . Thereafter they visited the places of Gwalior and Bodh Gaya and somehow or the other she could escape and came back to the house at Ambikapur and lodged the report.
3. Learned counsel for the applicant would submit that the prosecutrix is a married lady of aged about 34 years.

She fled away with the applicant on 2.8.2016 upon which a missing report was made by the husband of prosecutrix on 04.08.2016 and stayed in different hotels and ultimately she came back on 23.08.2016 and on the pressure of husband, the report has been made. He further referred to the documents i.e, the licence and also the passbook vide Annexures A-3 & A-4 and would submit that the bank accounts were opened in the joint name of applicant & prosecutrix which would show the *inter-se* relations between the parties, therefore, no case of rape is made out.

4. Per contra, learned State Counsel opposes the prayer.
5. Perused the case diary documents. The case diary also contains the statements of one Harvinder Singh which shows that the prosecutrix was missing and did not return to home. It further shows that the prosecutrix and applicant visited different places and she is a major lady. Thus considering the totality of the facts and circumstances especially the documents filed along-with the case diary, I am of the opinion that it is a fit case where the applicant can be granted anticipatory bail.
6. Accordingly, the 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 his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-
 - (i) that he shall make himself available for interrogation before the investigating officer

as and when required;

- (ii) that he 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 any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

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