

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case (A) No.454 of 2017**

- Jay Kumar Kesharwani S/o Shri Chandra Kumar, Aged About 32 Years Caste Kesharwani, R/o Ward No. 6, Shivrinarayan, Police Station Shivrinarayan, District Janjgir Champa, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Shivrinarayan, District Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant	: Shri Rajkamal Singh, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****23.6.2017**

Heard.

2. The applicant has preferred this application under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Code') for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.101/2017, registered in Police Station Shivrinarayan Distt. Janjgir Champa (CG) for the offence punishable under Section 376 of the Indian Penal Code.

3. Learned counsel for the applicant submits that prosecutrix (name not mentioned) had lodged FIR against the applicant on account of incident dated 27.3.2017, also regarding earlier incident of rape under the pretext of marriage and ultimately on 27.3.2017 the applicant has allegedly committed marpeet with the

prosecutrix and committed rape. Learned counsel for the applicant would submit that on 06.3.2017 the applicant has lodged a written report against the prosecutrix that on 06.3.2017 at about 6.00 pm, the prosecutrix came to his restaurant, demanded for tea and when she was informed that tea is not available , she started using filthy words and also damaged the furniture of the shop and had taken the money from the counter. The applicant does not know how much money she had forcefully taken from the cash counter and as per the allegation she gave threat that she will implicate him for the fabricated case of rape. As submitted, the prosecutrix had reported against many persons falsely for demand of money. He further submits that till date the applicant had not initiated any criminal case against the prosecutrix under the law. He further submits that even as per the prosecution case and the contents of the facts mentioned by the prosecution in the FIR as alleged and as surfaced in the order passed by the Additional Session Judge FTC in a petition for anticipatory bail filed by the applicant dated 17.5.2017, the applicant has been falsely implicated in the case. As per the allegation both were in relationship for about three years, which goes to show that the prosecutrix was a consenting party. With this the applicant may be granted bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant.

5. Perused the material.

6. On due consideration of the entire facts, the FIR lodged by the prosecutrix on account of incident dated 27.3.2017 and also regarding incident prior to that date as surfaced in the material collected, I am not inclined to grant bail to the applicant.

7. Accordingly, application filed by the applicant under Section 438 of the Code is hereby dismissed.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE