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HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 593 of 2017

- Ashok Kumar Shrivastava S/o Late Shri Balbhadra Shrivastava, Aged About 64 Years R/o Shiv Mandir Ward Mahadev Ghat Para, Jagdalpur, District Bastar, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through S H O City Kotwali , Jagdalpur, Chhattisgarh.

---- Non-applicant

For Applicant	: Shri Ashok Kumar Shukla, Advocate
For State/non-applicant	: Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/12/2017

1. Apprehending arrest in connection with Crime No.193/2017, registered at Police Station- City Kotwali, Jagdalpur (C.G.), for offence punishable under Section 376 and 420 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that applicant is innocent and has been falsely implicated by the prosecutrix in this case. The fact is this that the prosecutrix used to work as insurance agent under the applicant. On account of some requirement the prosecutrix has borrowed Rs.9,00,000/- from the applicant on 21-02-2016 and executed a promissory note. Again she has again borrowed Rs.5,00,000/-, another promissory note has been executed by her on 08-05-2016 and further on demand

made by the applicant for return of the money, the prosecutrix issued two cheques for Rs.9 lacs and Rs.4,80,000/- in favour of the applicant. Both the cheques bounced on being presented in the bank on instruction for stop payment by the account holder, the prosecutrix. Thereafter, the applicant has filed a complaint on which the cognizance was taken by the Court concerned on 12-09-2016 against the prosecutrix and the case is pending against her. In the meanwhile, the prosecutrix had filed a complaint in City Kotwali Jagdalpur against the applicant and his son that the applicant had approached her and made indecent proposal, on her refusal the applicant is continuously harassing her and she wants action to be taken against the applicant. This complaint was enquired into and a report was given by Sub-Inspector, P.S. City Kotwali showing that it was false complaint, so as to escape liability of paying back the amount borrowed from the applicant. It is submitted that after due deliberation and making developments the FIR has been lodged on 13-05-2017, which clearly shows that the applicant has been falsely implicated. Hence it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application for grant of anticipatory bail and the submission made in this respect. It is submitted that contents of the FIR show that there is allegation against the applicant that he has committed forcible sexual intercourse with the prosecutrix on 03-09-2010 and thereafter has sexually exploited her for years. Hence, looking to this categorical statement against the applicant, he is not entitled for grant of anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary and the documents.
5. A complaint has been lodged by the prosecutrix on 13-05-2017 stating that she was allured by the applicant that he will make her agent of insurance company and thereafter he also expressed his love for her and promise to marry her and thereby committed sexual intercourse with her on 03-09-2010. It is alleged that the applicant continued to exploit the prosecutrix sexually on the pretext of marrying her. After some time the prosecutrix refused to submit herself to the applicant and for that reason the applicant has falsely prosecuted the prosecutrix in the cheque bounce case.
6. Considered on the submissions made and contents of the case diary. Taking into consideration development of the things on the basis of the documents filed along with the application that there had been some money transaction between the applicant and the prosecutrix and also that the applicant had been demanding money from the prosecutrix prior to this complaint was made, which resulted in the prosecution of the prosecutrix under Section 138 of the Negotiable Instruments Act, it was after passing sufficient time that prosecutrix has lodged the FIR in the police station alleging the sexual exploitation done by the applicant. After overall consideration on the development of the things and the grounds taken by the applicant for grant of anticipatory bail, this Court is of the considered view that this is a fit case where the applicant should be benefited with grant of anticipatory bail.
7. Accordingly, the anticipatory bail application is allowed. 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 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) that 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/-
(Rajendra Chandra Singh Samant)
Judge