

HIGH COURT OF CHHATTISGARH, BILASPUR

M. Cr. C. (A) No. 1398 of 2016

Radheyshyam Bandhe S/o Harilal Bandhe, aged about 24 years,
present address - Gurudev apartment, Bajpaipara, beside Shiv
Mandir, Durga Chowk Basantpur, Rajnandgaon, permanent address
Village Bhalu Konha, Post and Police Station Ghumka, Tahsil and
District Rajnandgaon, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh through Station House Officer, Police Station
Basantpur, District Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Hamida Siddiqui, Advocate
For Respondent State	:	Shri Avinash Singh, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/05/2017

The present application under Section 438 of Cr.P.C. has been filed seeking for grant of anticipatory bail to the applicant apprehending his arrest in connection with Crime No.279/2016 registered at P.S. Basantpur, District Rajnandgaon (CG) for the offence punishable under Sections 376 of IPC

Counsel for the applicant submits that it is a totally false and fictitious complaint of rape which has been lodged against the applicant. She submits that a plain reading of the contents of the case diary itself would reveal that it was a clear case of a consenting party having physical relationship. The prosecutrix in the present case was a major lady already married to one Om Prakash. It is also reflected that in the past, she had filed a similar complaint against Om Prakash and thereafter, she married him. After marriage, now, she has prosecuted Om Prakash for the offence under Section 498A of IPC in Crime No. 589/2015 registered at PS

Mohan Nagar, District Durg and the case is still pending before the concerned Court. A plain reading of the statement of the prosecutrix clearly reflects her admission in having affair with the present applicant and in the course, having physical relationship with him. It also reflects that the complaint has been lodged when the applicant refused to marry her. Counsel for the applicant further submits that the request for marriage by the prosecutrix could not have been materialized for the reason that admittedly, the prosecutrix is a married lady and the marriage has not been dissolved till now. Until the first marriage of the prosecutrix is dissolved, the second marriage would not be permissible under law. Further, from the complaint itself it is reflected that she had voluntarily and willingly knowing fully well had entered into relationship with the applicant. Therefore, the applicant may be granted the advantage of anticipatory bail.

Considering the entire facts and circumstances of the case, this Court is of the opinion that it is a fit case where the present applicant can be given the advantage of being released on anticipatory bail.

In the result, the application u/s 438 Cr.P.C. is allowed. It is directed that in the event of arrest, the present applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000 with one surety in the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:

- (i) that the applicant shall make himself available for interrogation before the concerned 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.

Sd/-

(P. Sam Koshy)
Judge

Bhola