

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 93 of 2018**

Deepak Kumar Chakraborty, S/o. Late Prabhat Kumar Chakraborty, Aged About 57 Years, R/o. Vivekanand Nagar, Ward No. 40, Torwa, Police Station -Torwa, District -Bilaspur, Chhattisgarh.

----Applicant

**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station - Mahila Thana, Bilaspur, District -Bilaspur, Chhattisgarh.

---- Respondent

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|----------------------|-------------------------------------|
| For Applicant        | : Mr. V.R. Tiwari, Advocate         |
| For Respondent/State | : Mr. Anil S. Pandey, Govt Advocate |
| For Objector         | : Mr. B.M. Roy, Advocate            |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board****15/03/2018**

1. Apprehending arrest in connection with Crime No.09/2017, registered at Police Station – Mahila Thana, Bilaspur, District – Bilaspur (C.G.) for offence punishable under Section 376, 506 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 the applicant has been falsely implicated in this case. The applicant is Assistant Professor in Physics in C.M. Dubey, P.G. College, Bilaspur and he has put 37 years in service and he has unblemished service record. Recently, he was the in-charge Principal of C.M. Dubey, P.G. College, Bilaspur. Prosecutrix

approached this applicant for Psychology project and thereafter, she joined RCM business with the wife of this applicant. Prosecutrix had requested this applicant to appoint her as Assistant Professor in C.M. Dubey, P.G. College, Bilaspur, as this applicant could not give such appointment, the prosecutrix threatened him that, if she not appointed in the college, she will lodge false FIR against this applicant. Wife of this applicant Rina Chakraborty has made written complaint to Additional Superintendent of Police, Mahila Cell, Bilaspur complaining about the threatening given by the prosecutrix on 07.07.2017 and submits that as a counter blast, the prosecutrix has lodged false complaint on 09.10.2017.

3. Counsel for the applicant further submits, that he and the prosecutrix were engaged in whatsapp chat. Screen shots printed copies of whatsapp chat have been produced along with the application showing the messages sent by the prosecutrix on alleged date of incident i.e. 29.08.2017 and thereafter the other greeting messages up to 30<sup>th</sup> September, 2017. CD of recorded conversation of the applicant and the prosecutrix is also produced with written transcript about the conversation that took place between the applicant and the prosecutrix on 05.10.2017, in which the prosecutrix threatened the applicant, if the applicant does not appoint her to the post of assistant professor, then she will defame him and also threatened him about dire consequences.
4. It is further submitted that the FIR lodged by the prosecutrix is false for this reason also that the incident i.e. alleged to have been taken on 29.08.2017 has been reported on 09.10.2017 after the period of more than one month and in between the prosecutrix had left for Calcutta for a long period which raises doubt. Hence, no case is

made out against this applicant on the basis of the material in the case under investigation, therefore, it is prayed that the applicant may be granted anticipatory bail.

5. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that the delay in lodging in FIR has been sufficiently explained in the FIR itself, that the prosecutrix at first was subjected to threat given by the applicant, that he has prepared some video of the date of incident, which he may use to defame her in case, she does not submit to his wishes. It is also submitted that, when the prosecutrix came to know her husband was not a consenting party in the offence committed, it was then she made up her mind and gathered courage to come in front and lodge FIR against this applicant. It is submitted that the documents that are produced in support of the applicant are not with the investigation agency, hence, the authenticity of these documents can not be verified at this stage and the other story is made of in defence by the applicant that prosecutrix wanted to get her appointed as Assistant Professor in CM Dubey, P.G. College, Bilaspur and has come forward to lodge FIR against this applicant as a counter blast for not appointing her, is of no consequence at this stage. Hence, no case is made out for grant of anticipatory bail.
6. Counsel for the objector adopting the arguments submitted on behalf of the State, submits that the delay was due to reluctance of the prosecutrix for lodging of FIR on account of threat given by the applicant that he will defame her by making public the video recorded in which she is seen in objectionable condition and due to other threats given by the applicant that he will rape her daughter

as well and get her son killed. It is further submitted that first written complaint was made on 06.10.2017 to the Police. Thereafter, the second written complaint made on 08.10.2017 and it was on that basis, FIR was lodged on 09.10.2017. Applicant has come forward with cooked up story in his defence, hence, no case is made out for grant of anticipatory bail.

7. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
8. A written complaint was lodged by the prosecutrix in this case alleging that she was acquainted with the applicant on account of some RCM business, which is network marketing business. On 29.08.2017, applicant called the prosecutrix in his flat to discuss about the RCM business. While she was in the apartment of the applicant, he made her consume some cold drinks mixed with some intoxicating substance, because of which, she went unconscious. When she regained her consciousness, she came to know that she was raped during her unconsciousness. Prosecutrix made clear her intention to lodge FIR against the applicant on that complainant displayed a video recording in which she was seen nude and threatened her that the video shall be made public and he also threatened that he will further rape the daughter of the prosecutrix and also get her son killed. Applicant stated that the husband of the prosecutrix had consented for this physical relation. It is stated in the FIR that prosecutrix get disturbed mentally and she went to Calcutta for few days, when she came back on 27.09.2017, she was again called by the applicant in his flat and she was again raped by him on 29.09.2017. The prosecutrix gathered courage to ask her husband, whether he had consented

for physical relation with the applicant to which her husband denied. Subsequent to that she made up her mind and has lodged FIR in the Mahila Thana, Bilaspur.

9. Considered the submissions made and the contents of the case diary. Considering on the material present in the case diary most of the submissions that have been made by the applicant are submissions in defence. The investigation agency has no clue to make any investigation on that line. Presently according to the material present in the case diary, the statement made by the prosecutrix has presumptive value. Messages and whatsapp chats, facebook profile and the telephone conversation are also subject to the investigation for confirmation regarding truth in them, hence, at this stage and looking to this fact that investigation is at the initial stage, I am not inclined to grant anticipatory bail to the applicant.
10. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge