

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 114 /2018

Nileshwar @ Nilesh, S/o. Shri Kaliram Sarang, Aged About 34 Years, R/o. Village Kopedih, P.S. Amleshwar, Tahsil Paatan, District Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through The District Magistrate, Through The Police Station Amleshwar, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Pushpendra Kumar Patel, Advocate.

For Respondent : Mr. S.R.J.Jaiswal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06.04.2018

1. Apprehending arrest in connection with Crime No.06/2018 registered at Police Station- Amleshwar, Durg (C.G.) for the offence punishable under Sections 376, 506 of I.P.C. and Section 67-A of the I.T. Act, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was made by the victim, who is aged about 34 years, on 13.01.2018 alleging that from 13.01.2011 till date, she was subjected to forceful rape by the applicant. It was further stated that the applicant has prepared a mobile video clip and used the same to commit the sexual intercourse.
3. Learned counsel for the applicant would submit that total false allegations have been attributed. The incident is reported to be from the year 2011 and the report is made after 7 years in 2018. He further submits that in 2017 a report was made against the

applicant and her wife under Section 294, 323 & 506-B of I.P.C. wherein the allegation of rape was not made and had there been any allegation of rape, she could have reported the same. Consequently, it will show that false report has been made; therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the statement of the victim wherein she stated that she was subjected to forceful rape by the applicant and in one time while she was in the Anganbadi, he forcefully took her in front of the people and took her to a store room and committed sexual intercourse. One another statement of a lady who is relative is also enclosed wherein she stated that she was also subjected to forceful sexual intercourse. In the statement of the victim no plausible explanation has been shown that why the report was withheld for 7 years. Further, the fact of commission of rape in front of the other people in the Anganbadi has been made. Considering the totality of the case, without any observation, I am inclined to grant the benefit of anticipatory bail to the present applicant.
6. Accordingly, the anticipatory bail 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 furnishing a personal bond to a 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.

Ashok

Sd/-
(Goutam Bhaduri)
Judge