

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1030 of 2017

- Manish Dansena S/o Nehrual Dansena, Aged About 21 Years
Occupation Student, R/o Village Gare, Post Saraitola, Police Station
And Tahsil Tamnar, District Raigarh, Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Incharge, Adim Jati Kalyan Thana,
Raigarh, Chhattisgarh., Chhattisgarh

---- Respondent

For Applicant : Mr.Kishore Bhaduri, Advocate.
For Respondent : Ms. K. Tripti Rao, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

23/02/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.09/2017 registered at Police Station Adim Jati Kalyan, District Raigarh (C.G.), for the offence punishable under Section 376 of the Indian Penal Code (for short 'IPC') & Sections 3(1) (b) (i) & 3 (2) (v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. From the contents of FIR it is clear that the applicant and the prosecutrix had love affair for more than one year prior to lodgment of FIR. Only reason for lodging FIR is this that applicant refused to marry with the prosecutrix. Prosecutrix is a major lady. Prima facie, no offence under any Section of the SC / ST

act is made out against the applicant, therefore, the bar under Section 18 of the SC/ST Act shall not be applicable in the present case. Hence, it is prayed that applicant be released on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions. It is submitted that looking to the statement given by the prosecutrix during the investigation *prima facie* case is made out against the applicant. Hence, it is prayed that he is not entitled for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. FIR was lodged by prosecutrix on 11.7.2017 stating that about a year prior to the date of lodging of FIR, the appellant, on the pretext of marriage, had developed physical relations with the prosecutrix on several occasions and when the prosecutrix insisted for marriage, the applicant refused to marry her. Prosecutrix is a member of Scheduled Tribe community.
6. In **Praveen Kumar Sahu Vs. State of Chhattisgarh, 2007 (2) CGLJ 152** in which it was held by this Court that *if on perusal of the contents of FIR of the case, ingredients of offence under SC & ST Act, 1989 are prima facie not made out, the provisions of Section 18 of the SC & ST Act would not be applicable and the application under Section 438 of CrPC can be entertained*. In the instant case also, from perusal of the contents of FIR, it is clear that there is not a whisper that the offence, alleged to have been committed, was on account of the prosecutrix being a member of scheduled tribe. Further, it is also not in dispute that the prosecutrix is a major lady and there was love affair between the prosecutrix and the applicant for more than one year before lodging of FIR.

7. Thus, considering the entire material present in the case diary, I am of this view this is a fit case where applicant should be benefited with grant of anticipatory bail.
8. 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 his executing a personal bond in the 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 them by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge