

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1167 of 2017**

Rakesh Kumar Jeevnani S/o Late Shri Dayaram Jeevnani,
Aged About 37 Years R/o Z-2, Dubey Colony, Mowa,
Raipur Tehsil & District Raipur Chhattisgarh

--- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer,
Police Station Pandari Mowa , Raipur District Raipur
Chhattisgarh , Chhattisgarh

--- **Respondent**

For the applicant : Mr. Kashif Shakeel, Advocate.
For the State : Mr. Suryakant Mishra, P.L.
For the Objector : Mr. Chakresh Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

27.03.2018

1. Apprehending arrest in connection with Crime No. 364/2017 registered at Police Station Pandari (Mowa), Raipur (C.G) for the offences punishable 376 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, a report was made by the prosecutrix on 10.11.2017 that she was subjected to sexual intercourse on the pretext of marriage and applicant came in contact with her while she was working in a hotel as cashier. Subsequently the applicant all of a sudden left the home town and when she tried to contact the applicant on mobile he stopped receiving the calls and on enquiry having been made, it was revealed that the applicant was already married

having children, thereby the offence has been committed.

3. Learned counsel for the applicant would submit that the incident happened because of some business transaction between him and the owner of hotel Majban wherein the prosecutrix was working as cashier and the monetary dispute was existing between the applicant and the owner of the hotel namely Mohd. Ayub Raza and thereafter the applicant snapped business ties with Mohd. Ayub Raza. Later on he threatened the applicant of dire consequences and in order to falsely implicate the applicant, the prosecutrix is being used as an instrument and therefore false allegations have been attributed. Learned counsel further referred to certain documents and submits that prior to lodging of the report, the incident was reported to police and the police after investigation found that the monetary commercial dispute was existing as such no cognizance was taken, therefore, the applicant may be enlarged on anticipatory bail.
4. Per contra, learned State Counsel as also learned counsel for the objector oppose the prayer. The objector herself appeared in Court and objected prayer for grant of bail.
5. It has been submitted on behalf of the objector that she was subjected to sexual exploitation and rape on the pretext of marriage but subsequently the prosecutrix came to know that the applicant was married.
6. Considering the rival submission, it appears that the

prosecutrix maintained her stand that she was subjected physical exploitation on the pretext of marriage. and subsequently she came to know that the applicant was married. Her statement also records the same. Taking into consideration such fact, it is not a fit case where the benefit of section 438 can be extended to the applicant. Accordingly, this bail application is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**

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