

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 338 of 2018

Yuvraj Patel S/o Ramlal Patel, aged about 45 years, R/o Village- Sukhrukala,
Police Station- Bori, Tahsil Dhamdha, Distt. Durg (C.G.).

---- Applicant

Versus

State of Chhattisgarh Through- Station House Officer, Police Station- Bori, Distt.
- Durg (C.G.).

---- Respondent

For Applicant	:	Mr. Aman Kesharwani, Advocate
For Respondent	:	Mr. Sameer Behar, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

16/05/2018

1. Heard.
2. The applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 20/2018 registered at police station – Bori, Distt. Durg (C.G.) for the offence punishable under Sections 376 and 450 of IPC.
3. As per prosecution story on 24/02/2018, the prosecutrix a married lady aged about 46 years, had lodged a report in P.S. Bori against the present applicant alleging that on 18/02/2018 at about 7:30 pm, when she was alone in her house, the applicant entered into her house and committed forcible sexual course with her. At the time of incident, son of the prosecutrix namely Bharat came there and dragged out the applicant from the house and then the report was lodged.

4. Learned counsel appearing on behalf of the applicant submits that the applicant has been falsely implicated by the prosecutrix in the present case due to previous enmity. It is further submitted that on the date of incident, the applicant himself got injured by the complainant party and a written report/complaint against the complainant party was made on 18/02/2018 itself and thereafter the police has registered the offence under Section 323, 506, 294/34 of IPC against the complainant party. After six days delay, false complaint has been lodged against the present applicant. Though the delay has been explained as the husband of the complainant was outside, but as per the prosecution story itself, the incident was witnessed by Bharat Patel, son of the prosecutrix, therefore, delay explained by the prosecution regarding lodging of FIR is not reliable. Applicant is permanent resident of District- Durg, there is no possibility of absconding, therefore, he may be extended the benefit of anticipatory bail.
5. On the other hand, learned counsel appearing on behalf of the State has opposed the bail application and submits that the prosecutrix has lodged the named FIR against the present applicant. She in her statement recorded under Section 161 Cr.P.C has also named the present applicant, therefore, prima-facie strong case is made out against the present applicant and his application for anticipatory bail may be rejected.
6. Considering the facts and circumstances of the case, further considering the fact that though at the time of incident a major son of the prosecutrix was present but no prompt FIR was lodged. Instead of, present applicant himself had lodged a FIR on the same day against the complainant party. On the above, without further commenting on

merit of the case, I am inclined to extend the benefit of anticipatory bail to the applicant.

7. Accordingly, MCRCA No. 338/2018 is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum of Rs.10,000/- with one surety for 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 accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
 - ii. The accused/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. The accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - iv. 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.
9. Certified copy, as per rules.

Sd/-

Judge
Arvind Singh Chandel