

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 455 of 2018

Khelan Sonkar S/o Vishnu Sonkar, aged about 22 years, R/o Amapara, Rajim, P.S. and Post Rajim, District Gariyaband (C.G.).

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Rajim, District Gariyaband (C.G.).

---- Respondent

For Applicant	:	Shri Manoj Paranjpe, Advocate
For Respondent	:	Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/07/2018

1. The present is an application filed under Section 438 of Cr.P.C. seeking for anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 46/2018 registered at Police Station Rajim, District Gariyaband (C.G.) for the offence punishable under Sections 363 & 376 of IPC and Sections 4, 5(I) & 6 of Prevention of Children from Sexual Offence Act, 2012.
2. The allegation against the present applicant is that, the present applicant on the pretext of marriage is said to have first abducted the prosecutrix and thereafter had a physical relationship with her and lateron the present applicant refused to marry the prosecutrix and has married someone else.
3. The counsel for the applicant submits that, a bare perusal of the statement of the prosecutrix recorded under Section 164 of Cr.P.C. itself would clearly reflect that, even if the allegations levelled against the present applicant are to be accepted, a case of consensual relationship has been made out. He further submits that, the applicant has been wrongly implicated in the instant case as the request for marriage by the prosecutrix was refused by the present applicant and he had decided to marry someone else. He further submits that, the prosecutrix had earlier also filed cases of similar nature against two different persons of which one case was decided

in favour of the accused/present applicant whereas in another, the police authorities themselves did not find any substance in the complaint and had ordered for closure of the entire complaint and thus he prayed for granting the benefit of anticipatory bail to the applicant.

4. The State counsel however opposing the bail application submits that, it is a case where the prosecutrix is a minor and that even the earlier complaint lodged by the prosecutrix against the other persons would not come to the aid of the present applicant as it is a subsequent act and it is subsequent conduct of the applicant which has led to the filing of F.I.R. and thus prayed for rejection of the same.
5. Considering the entire facts and circumstances of the case, particularly taking into consideration the age of prosecutrix, the statement of prosecutrix and also the fact that there are similar complaints lodged by the prosecutrix on a couple of occasions earlier, but none of them could stand the test of trial, this Court is of the opinion that present is a fit case where the applicant is entitled for benefit of Anticipatory Bail.
6. Accordingly, the application under Section 438 of Cr.P.C. is allowed. It is directed that in the event of arrest of the present Applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, with the following terms and conditions:
 - (i) that the applicant shall make himself available for interrogation before the concerned 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.

Sd/-
(P. Sam Koshy)
Judge

Sumit