

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 572 of 2018

- Praveen Gupta S/o Banarasi Prasad Gupta, Aged About 28 Years, Occupation Magma Finance Company R/o College Ground Sitapur P. S. And Tehsil Sitapur District Surguja (CG)

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Sadar Ambikapur, District Surguja (CG)

---- Respondent

For Applicant	:	Shri Shakti Raj Sinha, Advocate
For Respondent	:	Shri Adil Minhaj, Panel Lawyer

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

03/07/2018

1. The applicant has preferred this application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.200/2018 registered at Police Station Sadar, Ambikapur, District Surguja for the offence punishable under Sections 294, 506, 323, 376 (2) (n) of the IPC.
2. As per the prosecution case, on 18.4.2018 a written report was lodged by the prosecutrix, aged about 23 years, alleging in it that since 2015 she was having affair with the applicant and during this period they had also developed physical relationship as a result of which she became pregnant twice and those pregnancies were got aborted at the instance of applicant. Since the applicant has flatly refused to marry her and is inclined to marry another girl, the report has been lodged by her.

3. Learned counsel for the applicant submits that the physical relations with the applicant and the prosecutrix, if any, was consensual and further that considering the age of the prosecutrix, even if the entire prosecution story is taken to be true, offence under Section 376 of IPC is not made out against the applicant. He further submits that there is no medical report proving the allegation of prosecutrix that she was subjected to beating by the applicant. He further submits that the prosecutrix has gone to the extent of uploading FIR in the social media i.e. Whatsapp & Facebook with intent to tarnish the image of the applicant.
4. On the other hand, learned State Counsel opposes the prayer for grant of bail.
5. Taking into consideration the facts and circumstances of the case, in particular the fact that the physical relations between the two were consensual which continued for a long time, and without further commenting on the merits of case, I am inclined to extend the benefit of protective umbrella under Section 438 of CrPC to the applicant.
6. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one surety in the like sum to the satisfaction of the concerned arresting/investigating officer or the court concerned as the case may be, with the following terms and conditions:
 - that the applicant shall make himself available for interrogation before the investigating officer as and when required;

- that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- 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/-

(Pritinker Diwaker)
Judge

roshan/-