

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 837 of 2018

- Rishikesh Dubey S/o Jivit Narayan Dubey Aged About 26 Years R/o Udaypur Dhab, Police Station And Tahsil Udaypur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Adim Jati Kalyan Thana Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant : Mr. Rahul Mishra, Advocate.
For Respondent/State : Mr. Ashok Swarnkar, Panel Lawyer.

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

24/08/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.18/2017 registered at Police Station-Adim Jati Kalyan Thana, Ambikapur, District – Surguja(C.G.), for the offence punishable under Sections 376(2)(n), 313, 34 of the Indian Penal Code and Section 3(2-5) of Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The prosecutrix is of age 25 years and she was a major girl at the time of incident, who had

consented for physical relation with applicant. It is not a case of consensual exploitation of the prosecutrix, hence, totally false FIR has been lodged against the applicant. Hence, it is prayed that he may be released on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that prosecutrix is a member of Scheduled Tribes, hence, the bar under Section 18 of Act, 1989 is applicable and the application for anticipatory bail is not maintainable.
4. Heard the parties and perused the case diary.
5. It is alleged that this applicant established physical relation with prosecutrix from the year 2012 to 20.8.2015 because of this relationship the prosecutrix became pregnant. When she informed about this pregnancy to the parents of the applicants, they by force got the pregnancy aborted. Subsequent to that FIR has been lodged on 5.6.2017 on the basis of written complaint dated 2.5.2017.
6. Considered on all the material present in the case diary, the delay in lodging the FIR is the reason for delay in filing the written complaint needs explanation, hence, after due consideration, I am of this view that this is a fit case where applicant should be released on anticipatory bail .
7. 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