

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 893 of 2018

- Amit Kumar Gupta S/o Dwarika Gupta Aged About 22 Years
Occupation Business, R/o Village Chalgali, Police Station And Tahsil
Lundra, District Surguja, Chhattisgarh., District : Surguja (Ambikapur),
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Mahila
Thana Ambikapur, District Surguja, Chhattisgarh., District : Surguja
(Ambikapur), Chhattisgarh

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate.
For Respondent : Mr. Rahul Tamaskar, Panel Lawyer.

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

27/09/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.12/2018 registered at Police Station-Mahila Thana, Ambikapur, District – Surguja (C.G.), for the offence punishable under Sections 376, 450 & 506 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. It is submitted that the date of incident is 9.5.2018 whereas FIR has been lodged on 25.5.2018. The

prosecutrix has made totally false statement before the police regarding the incident which has not taken place and has concealed and suppressed the other evidence regarding which the applicant had obtained the document under the Right to Information Act, which shows that on 11.5.2018 the husband of prosecutrix had filed a complaint in police-station Lundra alleging, that on the date of incident when he came back from outside he knocked the door repeatedly but his wife reluctantly open the door. When the door was opened he found someone hiding in the house who ran away on finding occasion to do so. He also alleged that when he asked his wife about the said person, she also left his house and started living in her parental home. The contents of this complaint show totally different story and it has been supported by the report of SHO,Lundra submitted to the Superintendent of Police dated 2.7.2018 which is attached along with this application. Hence, it is prayed that he may be granted on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that no case is made out for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. According to the written complaint given by the prosecutrix on 24.5.2018, it is stated that on 9.5.2018 about 11 pm in the night when the prosecutrix was alone in the house the applicant forcibly entered the house and committed the offence of rape with her. As mentioned in the complaint, the prosecutrix left for her paternal home on the very next day and when her husband brought her back, she went to the police and filed the complaint.

6. Considered on entire material present in the case diary as also the documents obtained under the RTI Act from the concerned police-station which shows altogether a different story, I am of this opinion that applicant should be granted 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