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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1057 of 2018

- Manoj Choubey S/o Late Shri Manharan Lal Choubey, Aged About 49 Years, R/o Tikrapara, Police Station City Kotwali, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S. City Kotwali, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Aman Kesharwani, Advocate.

For Non-applicant/State – Shri Lav Sharma, Panel Lawyer.

Ms. Neeta Choubey, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-09-2018

1. Apprehending arrest in connection with Crime No.332/2018, registered at Police Station – City Kotwali, District Bilaspur, Chhattisgarh for offence punishable under Section 354, 323, 34 of the IPC, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The fact is this, that the applicant and the victim in this case have a dispute with respect to the property, because of which, the victim/complainant wants the house, in which the applicant and the victim are residing, should be transferred in her name. Hence, to pressurize the applicant and others this false FIR has been lodged. The applicant had some apprehension of being falsely implicated, because of which, he filed a complaint in the police station on 12-07-2018 regarding which Annexure-A/2 has been attached with the application, but the police has not taken any action on that complaint, and subsequently the FIR has been lodged on 16-07-2018 with due deliberation. Hence, it is prayed that this applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that there is direct evidence of the victim in this case against the applicant to make a prima facie case, because of which, the applicant is not entitled for grant of anticipatory bail.
4. Learned counsel for the objector/complainant herself appear before the Court and opposes the application submitting that on the very next day of the incident she had given information to the police which was recorded in the rojnamcha sanha and the FIR was lodged on later date. Hence, there is no delay in giving information to the police. It is prayed that the application may be rejected.
5. Heard learned counsel for the parties and perused the case diary.
6. The case against the applicant is this, that the applicant and the victim are residing in the same house. The victim is widow of brother of the applicant. The victim has alleged that when she was inside her room the applicant came to her and with intention to outrage her modesty touched her body and then also abused and threatened her. Hence, this case.
7. As there is no dearth of evidence in the case against the applicant, I am of this opinion that this is not an extraordinary case in which benefit of Section 438 of the Cr.P.C. should be extended to this applicant.
8. Accordingly, the application filed by the applicant under Section 438 of the Cr.P.C. for grant of anticipatory bail is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge