

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1061 of 2018

- Vinay Vaishnav S/o Ajay Vaishnav Aged About 26 Years R/o Village Odiyakhurd, Police Station Sahaspur Lohara, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Sahaspur Lohara, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Respondent

For Applicant : Mr. Sushobhit Singh, Advocate.
For Respondent : Mr. Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/09/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.122/2018 registered at Police Station- Sahaspur Lohara, District – Kabirdham(C.G.), for the offence punishable under Sections 376, 506, 34 of the Indian Penal Code (for short 'IPC').
2. Learned counsel for the applicant submits, that applicant is innocent and has been falsely implicated in the crime in question. The fact is this that earlier there was love affair between the applicant and the prosecutrix, the prosecution subsequently married to another man. On 12.7.2018 a false FIR has been lodged by the prosecutrix in respect of

an incident which took place between them about three months ago on account of some dispute. Even if the contents of FIR are taken in its entirety then too the offence against the applicant would not travel beyond Section 506 of IPC. In these circumstances, it has been prayed that the applicant may be granted anticipatory bail.

3. Learned counsel for the respondent/State opposes the application and submissions made in this respect.
4. Heard both the parties and perused the case diary.
5. The FIR has been lodged by prosecutrix on 12.7.2018 alleging that some time before her marriage on 25.5.2018 the applicant had raped her. Subsequent to the marriage, this applicant started threatening the husband and brother of the prosecutrix, because of which the FIR has been lodged. Later on, in the statement under Section 164 of CrPC the prosecutrix has mentioned date of incident as 11.4.2018 when the offence of rape occurred.
6. After due consideration on all the material present that is proposed against the applicant for his prosecution in this case, I am of this opinion that the delay in lodging the FIR in this case needs explanation and also there are other circumstances to be explained. For this reason, I am of this view that this is a fit case where applicant should be enlarged on anticipatory bail.
7. Accordingly, the anticipatory bail application of applicant 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/- each 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 him by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha