

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1514 of 2018**

Milesh Kumar, S/o. Heeralal, Aged About 32 Years, R/o. Village Parna,
Police Station- Dongargaon, District Rajnandgaon Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Of
Police Station -Chhawani, Bhilai, District Durg Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate

For Respondent/State : Mr. Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****05/12/2018**

1. Apprehending arrest in connection with Crime No.702/2018, registered at Police Station – Chhawani, District – Durg (C.G.) for offence punishable under Section 376, 456, 506, 323 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. No case is made out against the applicant according to the evidence present in the case diary. The age of the prosecutrix is 28 years and she was a consenting party in this case. Only for the reason that their affair was discovered by her husband, the false FIR has been lodged.

Hence, for this reason, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that looking to the statement of the prosecutrix under Section 161 of Cr.P.C., no case is made out for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged on the date of incident at about 12 in the midnight, the applicant forced his entry into the house of the prosecutrix and then by putting her under threat, he assaulted her and then committed the offence of rape with her. The prosecutrix informed about this incident to her husband on the very next day and thereafter, the FIR has been lodged.
6. Considered the submissions made and the contents of the case diary. On the basis of the material present in the case diary, it appears that it was not a case of affair between the applicant and the prosecutrix, hence for this reason, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge