

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 13 of 2019

- Pushkar Prasad Chandra S/o Jeevan Lal Chandra, Aged About 24 Years, R/o Village Singhra, Tahsil and Thana Malkharouda, Civil and Revenue District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Kotwali District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

For Applicant – Mr. B.M. Roy, Advocate.

For Non-applicant/State – Ms. Madhunisha Singh, Panel Lawyer.

Mr. Pushkar Sinha, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-01-2019

1. Apprehending arrest in connection with Crime No.1090/2018, registered at Police Station – Kotwali, Durg, District- Durg, Chhattisgarh for offence punishable under Section 376, 323 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. No case is made out. The prosecutrix is adult woman of age 28 years, the applicant and the prosecutrix both had love affair and they had physical relation based on consent. The FIR is delayed by 3 years, which has been lodged to falsely implicate the applicant. The applicant himself is a Constable and thus a public servant. Therefore, it is prayed that he should be granted anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that according to the statement given by the prosecutrix against the applicant, the offence of rape is clearly made out, therefore, the application may be rejected.

4. Learned counsel for the objector submits that looking to the allegation

made against the applicant he is not entitled for grant of anticipatory bail.

5. Heard learned counsel for the parties and perused the case diary.

6. The case against the applicant is this, that, on the pretext of marrying the prosecutrix this applicant forcefully used to have physical relation with the prosecutrix while she was not willing for the same. The prosecutrix has given such statement under Section 164 of the Cr.P.C., therefore, in absence of willingness of the prosecutrix in the physical relation the offence of rape is made out. In further development the applicant has refused to marry the prosecutrix.

7. After due consideration on the case concerned, I do not feel inclined to allow this application.

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