

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 471 of 2019

- Abhijit Shukla S/o Late Kripashankar Shukla Aged About 30 Years R/o Mahavir Nagar, Vasant Vihar, Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station- New Rajendra Nagar, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Smita Jha, Advocate.

For Respondent : Mr. Aditya Sharma, Panel Lawyer.

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

08/04/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.38/2019 registered at Police Station-New Rajendra Nagar, District– Raipur(C.G.), for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. No case is made out against this applicant regarding the commission of offence of rape with prosecutrix, who is 29 years old major lady and both of them had voluntarily developed physical relation with each other. The applicant had earlier some hesitation in marrying the prosecutrix but now he is

ready to marry the prosecutrix and keep her as his wife. Hence, it is prayed that application be allowed.

3. Learned State Counsel opposes bail application and submissions made in this respect. He has submitted that prosecutrix has clearly stated in her statements recorded under Sections 161 & 164 of CrPC that the applicant had raped her, therefore, no case for grant of bail is made out.
4. Heard both the parties and perused the case diary.
5. FIR has been lodged against the applicant alleging that this applicant allured the prosecutrix with promise to marry her and established physical relation with her from 3.9.2018 to 1.1.2019, in which, the prosecutrix was not a consenting and willing party and, thereafter, he refused to marry her. In the order of Court below it is mentioned that the prosecutrix, was present before the Court, stating that she has no objection if anticipatory bail is granted to the applicant. Affidavit of the prosecutrix has also been filed by the side of applicant before this Court in which she has made similar statement that she does not want to prosecute the applicant and she has no objection in grant of anticipatory bail to the applicant.
6. Considering that applicant has expressed his willingness to marry the prosecutrix, therefore, for the purpose of bringing settlement in the life of applicant and prosecutrix, I feel inclined to allow this application on temporary basis.
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 him by the said Court till disposal of the trial.

8. It is made clear that this order shall remain effective for a period of six months from today. After performing marriage with the prosecutrix, the applicant shall be at liberty to file application for making this order absolute.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha