

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 541 of 2019

- Prabhakar Khobragode S/o Tulsi Ram Khobragode, Aged About 26 Years R/o Indra Nagar, Ward No. 5, Near Ravi Kirana Store, Police Station Dongargarh District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Office, Police Station Dongargarh, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant : Mr.Rahil Arun Kochar, Advocate.

For Respondent : Mr. Samdarsh Nirankari, Panel Lawyer.

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

29/04/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.15/2019 registered at Police Station-Dongargarh, District-Rajnandgaon(C.G.), for the offence punishable under Sections 363, 376, 506 of the Indian Penal Code and Section 4 & 6 of the POCSO Act.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. Firstly the FIR that was lodged was registered only for offence under Section 363 of IPC. The fact is this that the prosecutrix is a major girl, applicant and prosecutrix both had love affair, which is evident from the documents filed i.e. love letter written by the prosecutrix and photographs of both of them. After the recovery of prosecutrix, she was firstly examined on 16.1.2019 under

Section 161 of CrPC in which she had though admitted that applicant took her with him under the allurement of marriage but she did not allege anything about establishment of sexual relation by the applicant. Later on, the prosecutrix developed her statement under the pressure of her parents which shows that it is a totally false case. Hence, it is prayed that applicant be benefited with grant of anticipatory bail.

Reliance has been placed on the judgment passed in Cr.M.A. No.28666/2017 (Mahesh Gordhanbhai Makwana vs State of Gujarat); M.Cr.C. No.28263/2017 (Jitendra Dhakad vs The State of Madhya Pradesh) & Alamelu and others vs. State represented by Inspector of Police and Others reported in 2011 (1) Cr.C.P. (S.C.).

3. Learned State Counsel opposes bail application and submissions made in this respect. It is submitted that there is clear allegation that the applicant had abducted and sexually exploited minor prosecutrix and therefore her consent is immaterial. Offence under Section 363 of IPC was registered only on the basis of missing report and other offences have been added subsequently on the basis of statement given by the prosecutrix. In the second statement of the prosecutrix recorded under Section 164 of CrPC she has given detailed explanation about not making statement of rape in her earlier statement recorded under Section 161 of CrPC. Hence, a clear case is made out against the applicant, therefore, he is not entitled for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. Prosecutrix is a 16 years old minor girl. It is alleged that the applicant on one occasion in a deceitful manner informed her that he has obtained consent of her mother to take her and thereafter he took her

to different places and there committed the offence of rape with her. It is alleged that thereafter the applicant used to threaten the prosecutrix stating that he has prepared a video of the incident and he will make it viral if she does not submit to his wishes and on that basis the applicant continued to exploit her. He even abducted her also. Hence, this case.

6. Considered on the entire material present in the case diary. The prosecutrix in her second statement recorded under Section 164 of CrPC offered explanation regarding delay in making disclosure which shall be examined by the trial Court but her explanation cannot be rejected at this stage when the matter is being considered under Section 438 of CrPC, therefore, for these reasons, I am not inclined to allow this application.
7. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha