

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 670 of 2019

- Alok Kumar Mahapatra S/o Shriram Mahapatra, Aged About 34 Years, R/o Village and Post Jharigumma, Police Station Tentulikhunti, District Navrangapur (Odisha), Office Address Indo Tibbat Border Police Force, 40th Batallion, Medical Branch Yashasvinagar Camp Ranchi (Jharkhand) - 834006, at present Address T.H.Q. Dongergarh, Anti Naxal Movement (ANO) Camp Police Thana Magargatta Parisar, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Moudahapara, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Mr. Jitendra Gupta, Advocate.

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

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

14-05-2019

1. Apprehending arrest in connection with Crime No.29/2019, registered at Police Station – Moudahapara, Raipur, District Raipur, Chhattisgarh for offence punishable under Section 376 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. The prosecutrix has lodged a totally false FIR against the applicant making false allegations against him. As it is alleged in the FIR that the applicant met with the prosecutrix in May, 2015 and established physical relation with her while the applicant was admitted for treatment in the hospital where she worked as a nurse, whereas, the applicant was in fact admitted for treatment between 06-07-2016 and 07-07-2016, therefore, the statement is falsified. The prosecutrix had given a written complaint to the police on 13-11-2018, which was filed and a report under Section 155 of the Cr.P.C. was given, in which it is mentioned that the prosecutrix had consensual relation with the applicant and had lodged a

false complaint, because the applicant has refused to marry her. Thereafter, the prosecutrix filed an application under Section 156(3) of the Cr.P.C. on 29-01-2019 before the Court. By orders of the Court a report dated 07-02-2019 was submitted by SHO, Moudahapara, Raipur in which it was mentioned that no offence is made out against the applicant, even then the Court has passed the order against the applicant for lodging of the FIR and the FIR was lodged on 14-02-2019. It is a case where the prosecutrix has come forward with a totally improbable story. The relation, if to be believed, is totally on the basis of consent of each other. Hence, no case is made out against the applicant. Therefore, it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that looking to the statement given by the prosecutrix she has been raped and exploited by the applicant, therefore, the application may be rejected.

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

5. According to the FIR, the applicant has on the pretext of marrying the prosecutrix got her submission and exploited her sexually and thereafter has refused to marry her. Hence, this case.

6. After detailed consideration on all the facts, circumstances and the documents filed along with the application, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. 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 executing a personal bond in 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. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge