

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 655 of 2019

1. Mahendra Yadav, S/o Shrivcharan Yadav, Aged About 34 Years, R/o Village Pandarpath (Bhedikona Wrongly Typed As Bhedikela) , Police Station Bagicha District Jashpur Chhattisgarh.
2. Suresh Yadav, S/o Paltu Yadav, Aged About 36 Years, R/o Village Pandarpath (Bhedikona Wrongly Typed As Bhedikela) , Police Station Bagicha District Jashpur Chhattisgarh.

---- Applicants

Versus

- State of Chhatisgarh Through Police Station Jashpur, District Jashpur, Chhattisgarh.

---- Respondent

For Applicants : Mr. Manoj Paranjpe with Mr. Dilman Rati
Minj, Advocates.
For Respondent/State : Mr. Rahim Ubwani, Panel Lawyer.

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

07/05/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.94/2019 registered at Police Station-Jashpur, District – Jashpur(C.G.), for the offence punishable under Sections 365, 366, 376D, 344 & 506B of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The prosecutrix in this case is 20 years old lady, she and the main accused Sant Kumar Kanwar had

love affair because of which she eloped with Sant Kumar Kanwar on 5.7.2018 and she had been to different places with him, until she was recovered on 28.9.2018 by her family members from village Gowasi, Nawatola. The real story of the case is this, that on 28.9.2018 the family members of prosecutrix assaulted and thrashed Sant Kumar Kanwar in a brutal manner, regarding which Sant Kumar Kanwar has lodged one FIR against them, which was investigated and the family members of the prosecutrix have been prosecuted for offence under Sections 365, 294, 506, 323, 342, 147, 324, 148, 325, 367 of IPC, because of which they had to remain in jail for considerable time, before they were granted bail by the Court. In the subsequent development, on the ground of animosity and for the purpose of taking revenge, the family members of the prosecutrix have made use of her in lodging FIR which is sufficiently belated and lodged on 6.3.2019, after the order of this Court in Writ Petition(Cr.) No.136/2019 dated 6.3.2019. Earlier the complaint made by the prosecutrix alleging offence of rape against the applicants and the co-accused Sant Kumar Kanwar has been inquired and reported by SDOP, Bagicha, in which it was opined that because of the prosecution on the basis of FIR lodged by Sant Kumar Kanwar, the prosecutrix has given complaint for creating defence of the accused in that case, therefore, it clearly shows that the applicants have been falsely implicated, hence, it is prayed that applicant be benefited with grant of anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that prosecutrix has very clearly given statement that firstly she was abducted and raped by co-accused Sant Kumar Kanwar, and thereafter on different occasions both these applicants have committed the offence of rape with her.

Further, the prosecutrix has explained the delay in her statement under Section 161 of CrPC, that no action was taken by the police on her complaint and it was by the order of this Court the FIR has been lodged. Therefore, no case is made out for grant of anticipatory bail to both these applicants.

4. Heard both the parties and perused the case diary.
5. According to the prosecution case, on 5.7.2018 when the prosecutrix came out for defecation at about 11 pm in the night, co-accused Sant Kumar Kanwar by using physical force with help of applicant No.2 Suresh Yadav abducted her and by putting her under threat took her to places where she was kept in confinement and raped by both of them. While the prosecutrix was kept in confinement in village-Mudakona, applicant Mahendra Yadav visited her and by use of force and by putting her under threat he has also raped her. The prosecutrix was recovered on 28.9.2018 by her family members, thereafter, FIR has been lodged.
6. After considering on the entire material present in the case diary, looking to the direct statement given by the prosecutrix against these applicants and the explanation of delay given by her in her statement to the police, I do not feel inclined to allow the application of both these applicants.
7. Accordingly, the anticipatory bail application is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge