

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 799 of 2019

- Ankit Raja Tiwari, S/o Raj Kumar Tiwari, Aged About 30 Years R/o Amapara Ward, Kanker, Police Station & District- North Bastar Kanker, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station- Kanker, District- North Bastar Kanker, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sandeep Shrivastava, Advocate.
For Respondent : Mr. Aditya Sharma, Panel Lawyer.
For Objector : Mr. D. N. Prajapati, Advocate.

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

17/06/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.47/2019 registered at Police Station-Kanker, District-North Bastar Kanker, (C.G.), for the offence punishable under Sections 376 & 506 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. The prosecutrix is a major woman of age 25 years and she had been a consenting party in the affair between her and the applicant. The applicant and prosecutrix both have married by a registered marriage, therefore, no offence has been committed in this case. The FIR lodged is totally false, hence, it is prayed that he may be

granted anticipatory bail.

3. Learned counsel for the State opposes bail application and submissions made in this respect.
4. Learned counsel for the Objector after adopting arguments advanced by State counsel submitted that the prosecutrix has been ousted from the house of the applicant and thereafter she is very much helpless without any support, hence, the application be rejected.
5. Heard both the parties and perused the case diary.
6. According to the FIR lodged, it is alleged that applicant by alluring the prosecutrix with false promise to marry her established physical relation and raped her on number of occasions. Hence, this case.
7. On perusal of the statement of prosecutrix under Section 164 of CrPC, it appears that she has stated that she and the applicant had physical relation based on consent of each other and she does not want to prosecute the applicant. The copy of marriage certificate is also produced along with application as Annexure-A/2 showing that the applicant and the prosecutrix had performed registered marriage thereafter, after due consideration, I feel inclined to allow the application of this applicant.
8. 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha