

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 641 of 2018****Order reserved on 24.04.2019****Order delivered on 02.05.2019**

Dr. Naresh Sahu, S/o Manbharat Sahu, aged about 32 years,
R/o Village Khokhri, At present- BMO at Nawagarh in Primary
Health Center Navagarh, District Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through: P.S. - Civil Line, Bilaspur, Distt.
Bilaspur, Chhattisgarh.

----Respondent

For Applicant	:	Mr. Kishore Bhaduri, Advocate with Ms. Swati Upadhyay, Advocate
For State	:	Mr. Anant Bajpai, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. Apprehending arrest in connection with Crime No.69/2018 registered at Police Station-Civil Lines, Bilaspur, Distt. Bilaspur for offence under Section 376 IPC read with Section 3(2)(v) & (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth, "Act of 1989"), the applicant has filed this bail application under Section 438 Cr.P.C. for grant of anticipatory bail.
2. The case of prosecution, in brief, is that the applicant committed sexual intercourse with major prosecutrix from October, 2012 to 15.11.2017 on the pretext of marrying her without having any intension to marry with her and thereby

committed the offences.

3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the crime in question. There is an inordinate delay of six years in lodging the FIR as incident is of the year 2012 whereas the FIR has been registered on 20.01.2018. He further submits that it is clear from the report of the prosecutrix that the applicant has not committed alleged offence with the prosecutrix and at the most, it is the case of sexual intercourse with her consent which does not constitute an offence of rape. He also submits that the applicant herein is government doctor and working as a Block Medical Officer and if he is arrested, the patients and government work will suffer and even otherwise, bar under Section 18 of the Act of 1989 would not be applicable in the present case.
4. On the other hand, learned State counsel submits that the applicant on the promise of marrying with the prosecutrix committed sexual intercourse with her and he had no intension to marry with her and the prosecutrix being a member of Scheduled Caste, bar under Section 18 of the Act of 1989 is squarely applicable in the instant case.
5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and went through the case diary with utmost circumspection.

6. Taking into consideration the facts and circumstances of the case, particularly that the applicant committed sexual intercourse with the prosecutrix from October, 2012 to 15.11.2017 on the pretext of marrying her and considering the material available in the case diary in this regard, it cannot be held that no *prima facie* case is made-out against the applicant for offence under Section 376 IPC read with Section 3(2)(v) & (va) of the Act of 1989 and therefore, bar under Section 18 of the Act of 1989 would be applicable, as such, I am not inclined to grant anticipatory bail to the applicant. Accordingly, bail application filed on behalf of the applicant is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge