

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 893 of 2019

- Rajendra Barman, S/o Kaliram Barman, Aged About 39 Years, R/o Neel Mayur Apartment, Deendayal Upadhyay Nagar, Raipur, Tahsil and District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station-Deendayal Upadhyay Nagar, Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Rajeev Shrivastava with Mr. Malay
Shrivastava, Advocates.
For Respondent : Mr. Lav Sharma, Panel Lawyer.
For Objector : Mr. Sanjay Patel, Advocate.

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

25/06/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.173/2019 registered at Police Station-Deendayal Upadhyay Nagar, Raipur, Chhattisgarh for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. In this case prosecutrix herself has filed an affidavit before the Court below making an statement that she has lodged false FIR against this applicant and she has no objection if anticipatory bail is granted to applicant. However, this fact has not been considered by the Court below while considering

bail application of applicant. The prosecutrix herself is present before his Court to make such statement. Hence, it is clear that no case is made out against the applicant and therefore he may be enlarged on anticipatory bail.

3. Learned State counsel opposes bail application and submissions made in this respect.
4. Prosecutrix is present in person before this Court along with her counsel. She has been identified by the counsel representing her. A copy of Adhaar Card has also been produced in support of her identity. She has made statement that she had voluntarily filed affidavit before the Court below that she has no objection if the applicant is granted anticipatory bail for the reason that no such offence has been committed by him.
5. Heard both the parties and perused the case diary.
6. In the FIR lodged it is alleged that this applicant, who is in relation with the prosecutrix, has raped her.
7. Considered on the entire material present in case diary. The prosecutrix, who is personally present before this Court, has made an statement in favor of applicant and thereby she has very clearly contradicted FIR lodged and statement given to police. Hence, looking to this circumstance, I feel inclined to allow application of this applicant.
8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of applicant in connection with 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