

NAFRHIGH COURT OF CHHATTISGARH, BILASPURReserved on 08.08.2019Pronounced on 09.08.2019MCRCA No. 951 of 2019

- Dikshesh Patel S/o Mohar Singh Patel Aged About 21 Years Occupation- Student, Studying In 2nd Year In I.T.I. Wiremen Faculty, R/o Bansiya, Tahasil - Raigarh, District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Chakradhar Nagar, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant : Mr. Soumitra Kesharwani, Advocate

For Non-applicant : Mr. Vaibhav Kartike Agrawal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar GuptaCAV ORDER

1. This is an application for grant of anticipatory bail under Section 438 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.

2. The applicant has been arrested in connection with Crime No.167/2019 registered at Police Station- Chakradhar Nagar, Distt. Raigarh (C.G.), for offence punishable under Section 376 of the Indian Penal Code.

3. Case of the prosecution, in brief is that prosecutrix is about 20 years old and resident of Raigarh. One year prior to onwards applicant committed repeatedly sexual intercourse with her. Thereafter he refused to marry her.

4. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case. He further submits that prosecutrix was consenting party. Hence applicant may be released on anticipatory bail.
5. On the other hand, learned counsel for the State opposes the bail application. However, there is no criminal antecedent against the applicant in police case diary.
6. Counsel for the applicant placed reliance in the order of the Delhi High Court in the matter of **Rohit Chauhan Vs. State NCT of Delhi {(2013) 4 JCC 2801}** and in the order of the Delhi High Court in the matter of **Vikash Vs. The State of Delhi {(2007) 3 JCC 2336}**.
7. As per the report of S.H.O. Chakradhar Nagar applicant is absconding. In aforesaid orders of **Rohit Chauhan** (Supra) and **Vikash** (Surpa) no legal principle has been laid down. It is a settled legal position of law that every bail petition is to be considered on its individual factual matrix. It is also well settled legal principle that while dealing with the bail application Court cannot touch the merits and demerits of the case nor scrutinize the evidence
8. Looking to the facts and circumstances of the case, looking to the material available on record, looking to the impact of granting anticipatory bail to the applicant on society, this Court finds that it is not a fit case wherein the applicant may be enlarged on anticipatory bail under Section 438 of the Cr.P.C.
9. Consequently, the present anticipatory bail application is rejected.

Sd/-

(Sharad Kumar Gupta)

JUDGE

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