

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 965 of 2019

Shyamlal Markam S/o Somaruram Markam, aged about 33 years R/o Village Kumharbadgaon Tahsil Farasgaon, District Kondagaon (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through- the Police Station Farasgaon, District Kondagaon (C.G.).

---- Respondent

For Applicant	:	Mr. Pravin Kumar Tulsiyan, Advocate
For Respondent	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

02/08/2019

1. Heard.
2. The Applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 39/2019 registered at police station – Farasgaon, District Kondagaon (C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
3. In this case, the Prosecutrix is a lady aged about 28 years. She lodged a report before Police Station alleging therein that the Applicant had maintained physical relationship with her on the pretext of marriage from 2012 to 2018 and thereafter refused to perform marriage with her. On the basis of said report, offence has been registered.
4. Learned counsel appearing on behalf of the Applicant submits that the

Applicant has been falsely implicated by the prosecutrix in the present case. The Applicant is in government service and posted at Balod. It is further submitted that for the shake of argument if the case of the prosecution is accepted, still the Prosecutrix was the consenting party as alleged by her. Apart from this, the incident was between the year 2012 to 2018, but the FIR has been lodged on 16/05/2019. Since the Prosecutrix was consenting party and her age was above 28 years, therefore, prima-facie no offence under Section 376 of the IPC is made out against the Applicant. He prays that the Applicant may be extended the benefit of anticipatory bail.

5. On the other hand, learned counsel appearing on behalf of the State has opposed the bail application and submits that according to the material contained in the case diary, prima-facie the case lodged against the Applicant is made out and therefore, his bail application may be rejected.
6. I have heard counsel for the parties and perused the record.
7. Taking into consideration the submission put forth on behalf of the parties and further considering that the age of the Prosecutrix was above 28 years and it seems that she was the consenting party, therefore, without further commenting on merit of the case, I am inclined to extend the benefit of anticipatory bail to the Applicant.
8. Accordingly, this bail application is allowed.
9. It is directed that in the event of arrest, the Applicant shall be released on bail on furnishing a bond in the sum of Rs.20,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:

- i. That, the accused/Applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
- ii. The accused/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. The accused/Applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- iv. 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.

10. Certified copy, as per rules.

Sd/-

Judge
Arvind Singh Chandel

Rahul