

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1025 of 2019

- Nikhil Kachhwaha @ Montu Kachhwaha S/o Manoj Kachhawaha, Aged about 21 Years, R/o Near R.K. Boot House Lane No.3 Telipara P.S. City Kotwali Tahsil and District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, through The Police Station Mahila Thana, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Pravin Kumar Tulsyan, Advocate.

For Non-applicant – Shri Roshan Dubey, Panel Lawyer.

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

08-08-2019

1. Apprehending arrest in connection with Crime No.56/2018, registered at Police Station – Mahila Thana, District- Bilaspur, Chhattisgarh for offence punishable under Section 376 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant and the prosecutrix both are married to each other. The prosecutrix in this case lodged the FIR on 06-12-2018 on the basis of which police has registered offence under Section 498A of the IPC in which the applicant was arrested and granted bail by the Court concerned. Later on, at the stage of filing charge sheet offence under Section 498A of the IPC has been omitted and instead of that offence under Section 376 of the IPC has been added, therefore, the applicant has apprehension of being arrested again. Therefore, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that according to the contents of the FIR and the statement of the prosecutrix, it is a clear case of commission of offence of rape, therefore, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the FIR lodged, the applicant had some kind of affair which continued for some time and thereafter on 25-11-2018 the applicant performed marriage with the prosecutrix in a temple. Just after a few days the applicant deserted the prosecutrix and informed her that he will not have her as his wife. Hence, the FIR has been lodged.

6. Considering the development that has taken place in this case. Firstly the FIR was lodged under Section 498A of the IPC for which the applicant was granted bail and subsequently the offence has been added and enhanced. Therefore, in these circumstances, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. 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 executing a personal bond in 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge