

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1019 of 2019

- Rampyari S/o Shri Pawan Singh @ Pawan Sai Aged About 56 Years Occupation Service Security Guard, SECL, Kusmunda, R/o Village Newra, Police Station, Tahsil And District Surajpur Chhattisgarh. Presently Resided At Adarsh Nagar, Kusmunda Project, Police Station Kusmunda, District Korba Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Ajak, Surajpur, District Surajpur Chhattisgarh.
2. The Station House Officer Police Station Gandhi Nagar, Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
3. Meena Sonwani @ Meenu Sonwani D/o Shri Rajendra Prasad Sonwani, Aged About 20 Years R/o Ita Bhatta, Bazarpara, Bhatgaon, Police Station Bhatgaon, District Surajpur Chhattisgarh. (Complainant)

---- Respondents

For Applicant : Mr. Vivek Bhakta, Advocate.

For Respondent/State : Ms. Smriti Shrivastava, P.L.

For Objector : Mr. Rajendra Kumar Suryawanshi, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

25/11/2019

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with complainant case no. 1362/2018, pending before JMFC Surajpur, Distt. Surajpur (C.G.) for the offence punishable under Section 376 (D) of the IPC.
2. As per prosecution story, respondent No. 3/prosecutrix made a complaint case on 29.04.2013 before the learned Judicial Magistrate First Class, Surajpur (C.G.). It has been alleged that in the said complainant she stated that on 20.03.2012, the marriage of the complainant was

solemnized with Manoj Kumar and she started living with her husband, after some months, her husband expelled her from his house on account of demand of dowry and some dispute between them. Thereafter, she made a report regarding demand of dowry. It has been alleged her father-in-law used to tease her and when she told this fact to her husband, the husband of the complainant taken his father's side. It has been further alleged that on 05.04.2013, the applicant and others taken the prosecutrix to forest and committed gang rape with her. The complaint case was filed against 11 persons. Learned JMFC vide order dated 17.09.2018 registered the complaint case and taken cognizance against the applicant and other co-accused persons namely Suresh and Praveen for the offence punishable under Section 376 (D) of the IPC and also taken cognizance against other co-accused persons for the offence punishable under Section 166 (A) of the IPC.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case by the complainant due to some dispute with her father-in-law. He further submits that entire story narrated by the complainant is not reliable. She is falsely implicated the applicant because earlier also she made a complaint on 12.09.2012 against the applicant and his family members for the alleged offence under Section 498-A of the IPC. The Counsel submits that after trial they all have acquitted by the Trial Court. Initially an FIR lodged by the prosecutrix/complainant on 05.04.2013 thereafter, the prosecutrix submitted a written submission in police station Jayram wherein she admitted the fact that she made a false FIR dated 05.04.2013 at the behest of Gurdeep Singh Maan and Ajay. On the basis of said written submission, police has registered the offence under Section 384 & 120 B against Gurdeep Singh Maan and Ajay. Thus, it is well established that the applicant has falsely implicated in this case by the complainant, therefore, he may be granted benefit of anticipatory bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for the parties.

6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that the prosecutrix herself living separately since 12.09.2012, on 24.04.2013 present complaint case was filed. Alleged incident dated 05.04.2013, as per her written submission false report was lodged at the behest of Gurdeep Singh Maan and Ajay. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- 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 made 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.

Sd/-

(Arvind Singh Chandel)
Judge