

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1114 of 2019

- Ritesh Kashyap S/o Shivprasad Kashyap Aged About 30 Years R/o Indersen Nagar, 27 Kholi, Bilaspur, Police Station-Civil Line, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Khadgaonwa, District- Koriya, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Abhishek Sinha, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

22/10/2019

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 crime no. 119/2019, registered at Police Station Tarbahar, Distt. Bilaspur, Chhattisgarh for the offence punishable under Section 341, 376 & 506 of the IPC and Section 6 of the POCSO Act, 2012.
2. As per prosecution story, on 10.06.2019, a complaint has been filed by the prosecutrix alleging therein that on 07.06.2019 at about 3 PM, the applicant who is a teacher of her school asked her over telephone to visit his home at 6 PM for filling the form of Class 10th Distance Education. As per the instruction of her teacher, she visited the applicant's house and there she stayed till 9 PM. Allegedly,

during that time, the applicant threatened her and committed forcible sexual intercourse with her. On the basis of said report, offence has been registered against the applicant.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that the applicant is a school teacher, on 07.06.2019 complainant came to his place along with her parents and on their request applicant has filled the examination form of class 10th Distance Education and thereafter he asked her parents for depositing the tuition fee and examination fee, thereafter parents of the complainant started quarrel with the applicant and beaten him, due to which, the applicant sustained injuries and was treated at CHC Hospital. Thereafter, on 10.06.2019, after three days of incident to save themselves, they made a report against the applicant. Learned Counsel for the applicant further submits that offence under Section 6 of the POCSO is not made out because as per school record i.e. *Dakhil Kharij* of the prosecutrix, her date of birth is mentioned as 19.03.2001, therefore, on the date of incident i.e. 07.06.2019, she was aged about 18 years 3 months. He further submits that during the pendency of this present application, police has also registered the offence under Sections 3(2)(V), 3(2V-A) SC/ST (Prevention of Atrocities) Act. But, there is nothing on record on the basis of which it can be said that the offence under Sections 3(2)(V), 3(2V-A) SC/ST (Prevention of Atrocities) Act can be made out against the applicant. He lastly submits that if the entire case taken as it is, it seems that the prosecutrix is a minor and she was consenting party of the alleged Act because as stated by herself, she called the applicant and went to his house on her own will and there she stayed till 9 PM, therefore, *prima facie* no case under Section 376 of the IPC can be made out against the applicant. There was a delay of three days in lodging the FIR and no proper explanation has been given by the prosecution in this regard. The applicant is a

reputed person of his society, he is the permanent resident of above mentioned address and there is no chance of his absconding, 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 both 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. Without further commenting on 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