

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1262 of 2019

- Amarchand Banjara S/o Shri Jhumukdas Banjara Aged About 42 Years (Head Constable), R/o Village Patakundi, Police Station - Lalpur, District Mungeli Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Lalpur, District Mungeli Chhattisgarh.

---- Respondent

For Applicant	: Mr. Soumitra Kesharwani, Advocate.
For Respondent/State	: Mr. Anand Verma, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

23/10/2019

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. 173/2019, registered at Police Station Lalpur, Distt. Mungeli, Chhattisgarh for the offence punishable under Section 376 of the IPC.
2. In this case, the prosecutrix is a lady aged about 31 years. On 14.07.2019, she lodged a report in police station alleging therein that she was having some affair with the applicant who not inform the prosecutrix about her earlier marriage and they have performed *Choodi* marriage on 01.05.2018 and resided together as husband wife. On their wedlock, on 26.09.2018 they have blessed one son. Allegation against the present applicant is that he hid the fact that he was already married with another lady and regularly committed

sexual intercourse with the prosecutrix. On the basis of report lodged by prosecutrix, offence has been registered.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. There was a love relationship between both of them. The prosecutrix herself admitted the fact that she has performed *Choodi* marriage with the applicant. Thus, she is married wife of the applicant, they both have blessed one child also and on the birth certificate of their child, name of the applicant is also mentioned as his father. He further submits that the prosecutrix is a well educated lady and she is a teacher. If the entire prosecution story taken as it is, it seems that she was a consenting party in the alleged Act. Prima facie no offence under Section 376 of the IPC can be made out against the applicant.
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 and further considering the fact that the prosecutrix who is a teacher and aged about 31 years herself got married with the applicant and they have blessed one child also. 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