

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1675 of 2019**

- Nutan Kumar Dewangan S/o Laxmi Narayan Dewangan Aged About 23 Years R/o Ward No.- 7, Near Gaytri Mandir, Post Dhaurabhatha, Post-Dhaurabhatha, Dhamtari, District-Dhamtari, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station- Magarload, District- Dhamtari Chhattisgarh.

---- Respondent

For Applicant	: Shri Shobhit Koshta, Advocate.
For Respondent/State	: Shri Amit Verma, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**02/12/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending his arrest in connection with Crime No. 242/2019 registered at Police Station Magarload, District – Dhamtari, (C.G.). for the offence punishable under Sections 376, 456, 506, 363 of I.P.C. and Section 4 & 6 of POCSO Act.
2. As per the prosecution story, on 01.09.2019 around 1:00 AM in the night, prosecutrix who is a girl aged about 15 years was sleeping with her aunt in the house, allegedly, co-accused Vinod Dhruv came in the house and threatened the prosecutrix that if she will not come with him, he will kill her parents. Thereafter, he took the prosecutrix outside the house where co-accused Toman Kunwar and present applicant were standing. It is alleged that present applicant and co-accused Toman Kunwar assisted the co-accused Vinod Dhruv in taking away the prosecutrix with them. Thereafter, Vinod forcibly committed sexual intercourse with the prosecutrix. On the basis of the report made by the prosecutrix, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that name of the present applicant is not mentioned in the F.I.R. On 10.10.2019 when statement of the prosecutrix under Section 161 of Cr.P.C. was recorded, then first time prosecutrix mentioned the name of the present applicant. *Prima facie*, no offence is made out against present applicant. However, only 363 of I.P.C. can be made against applicant which is a bailable offence. Thus, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.
6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.
7. Accordingly, the bail application is allowed.
8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :
 - (i) He 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 from disclosing such fact to the Court,
 - (ii) He shall not act in any manner which will be

prejudicial to fair and expeditious trial, and

- (iii) He 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