

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 1852 of 2019**

- Haji Mohammed Ali S/o Akbar Ali Aged About 55 Years R/o Near Tripti Super Bazaar, Adarsh Nagar, Durg, Tahsil and District Durg, Chhattisgarh.

**---- Applicant****Versus**

- State of Chhattisgarh Through District Magistrate, Durg, District Durg, Chhattisgarh.

**---- Respondent**

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| For Applicant        | : Shri Amiyakant Tiwari, Advocate. |
| For Respondent/State | : Shri Amit Verma, P.L.            |
| For Objector         | : Shri Jitendra Gupta, Advocate.   |

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**Hon'ble Shri Justice Arvind Singh Chandel****Order On Board****11/12/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 975/2019 registered at Police Station Durg, District – Durg, (C.G.) for the offence punishable under Section 376 of I.P.C.
2. As per the prosecution story, age of the prosecutrix is about 50 years and she is a widow having two children. Present applicant is also a married person, aged about 55 years having his own family. On 22.10.2019 prosecutrix made a written complaint stating therein that her husband died on 16.01.2012, present applicant had familiar relationship with her husband and therefore, both of them were well known to each other. Applicant was frequently visitor of prosecutrix

house. It is alleged that on 25.04.2015 around 7:00 PM, applicant took the prosecutrix to his house and committed sexual intercourse and also promised her to marry. It is further alleged that on 06.05.2016, present applicant shifted the prosecutrix alongwith her daughter in her house situated at Borsi, District Durg and committed sexual intercourse with her on pretext of marriage due to which she became pregnant and thereafter, applicant aborted the child in the womb. It is also alleged that applicant has kept the papers of her house in his possession and threatened her that he will cause damage to her daughter by acid. On the basis of the above allegations, 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, earlier also prosecutrix has lodged one criminal complaint of same nature against one Prasannjeet Anand and on her complaint a crime was also registered under Section 376 of I.P.C. by police and charge-sheet was also filed. During trial, prosecutrix was examined and she turned hostile, thereafter, Prasannjeet Anand was acquitted vide judgment dated 09.10.2014. It is further submits that present applicant was being blackmailed by the prosecutrix for grabbing his money and the immovable property to which he had already reported to the Superintendent of Police, Durg on 25.02.2017. Prosecutrix, knowing the fact the applicant is a married person, has alleged that applicant had committed sexual intercourse with her on pretext of marriage, is not reliable and acceptable. *Prima facie*, no offence under Section 376 of I.P.C. is made out against

applicant. It is further submitted that the alleged incident is of year 2015 and F.I.R. has been lodged after a gap of four years. Similar allegation was also made against Prasannjeet Anand, from which it is established that prosecutrix is used to lodging of false report. He further states that applicant is married man and a reputed person. Therefore, looking to the above, it is prayed that he may be granted benefit of anticipatory bail.

4. Learned Counsel appearing for the State and Objector 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 and particularly considering the fact that the alleged incident is of 2015 and F.I.R. has been lodged after a gap of four years, similar allegations was also made against one Prasannjeet Anand wherein prosecutrix was examined in the Court and thereafter she turned hostile and Prassanjeet Anand was acquitted from the charges, therefore, 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**