

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.91 of 2020

Toran Prasad S/o Bhanupratap Shukla Aged About 53 Years Occupation
Pandit R/o Village Uslapur, Post Hatranka, Police Station And Tehsil
Thankhamhariya, District Bemetara Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Thankhamhariya, District Bemetara Chhattisgarh ---- **Respondent**

For Applicant	:	Ms. Sharmila Singhai, Advocate.
For Respondent/State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/06/2020

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.130/2019 registered at police station – Thankhamhariya, District Bemetara (C.G.) for alleged commission of offence under Section 450, 376 & 506 of IPC.
2. Case of the prosecution is that when prosecutrix was sleeping in the veranda of her house on 17.09.2018, the applicant came in and committed sexual intercourse and committed rape on her.
3. Learned counsel for the applicant argues that present is a case of false implication. She would submit that, though, according to prosecutrix, the incident happened on 17.09.2018, the report has been lodged after more than one year on 24.10.2019. Further submission is that there was a dispute between the prosecutrix's family and the applicant's family and in fact, proceedings under Section 157/107, 116 Cr.P.C. were drawn and *Ishtgasha* (ईस्तगाशा) was also submitted earlier on 21.10.2019. As a result of this dispute, an afterthought allegation was made against the present applicant by the prosecutrix.

4. On the other hand, learned State counsel opposes the prayer for grant of anticipatory bail and states that the prosecutrix, in the FIR has clearly stated regarding commission of offence of rape on her on 17.09.2018 by the applicant. The prosecutrix is a person belonging to weaker section whereas the applicant comes from affluent class and he was exploiting the prosecutrix. The incident dated 17.09.2018 was not reported in the police immediately after the incident because wife of the applicant came to the house of the prosecutrix for pardon stating that their daughter is going to marry very soon. Therefore, at that time, the prosecutrix did not lodge any report but later on, when the harassment continued and son of the applicant also started harassing the prosecutrix along with the applicant time and again, finally report was lodged.

5. On prima facie consideration, what is reflected is that even according to prosecutrix, the incident happened on 17.09.2018. As per FIR, when the accused had come to her house, her mother-in-law was present and according to the prosecutrix, mother-in-law had witnessed the incident. Further, according to FIR, the prosecutrix's husband also arrived later on and he was informed regarding the incident. That means, the mother-in-law and husband of the prosecutrix had come to know about the incident. However, none of them lodged any report in the police station for more than one year. The present report has been lodged after submission of *Ishtgasha* (ईस्तगाशा) dated 21.10.2019 in the matter of dispute between the parties on both the sides. Therefore, possibility of false implication cannot be excluded. Accordingly, present appears to be a fit case for grant of anticipatory bail. Accordingly, the application is allowed.

6. Accordingly, it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that 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 facts to the Court or to any Police Officer.

(iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Rekha