

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.201 of 2020**

Piyush Tiwari S/o Mr. Basant Tiwari Aged About 32 Years R/o New
R.D.A. Colony, Tikrapara, Raipur Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through The Police Station City Kotwali, District
Raipur Chhattisgarh ---- **Respondent**

For Applicant	:	Mr. Raza Ali, Advocate.
For Respondent/State	:	Mr. Siddharth Dubey, Dy. G.A.
For Objector	:	Mr. Dharmesh Shrivastava, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****24/06/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.5/2020 registered at police station –City Kotwali, District Raipur (CG) for alleged commission of offence under Section 376, 384, 420 of IPC.

2. Prosecution allegation against the applicant is that the applicant committed rape on the prosecutrix. It is alleged that the applicant has been lodging false cases against the prosecutrix, her father, brother and husband and in various cases, the family members of the prosecutrix and the prosecutrix have been arrested though later on, released on bail. It is alleged that the applicant, since long time, had been sexually exploiting the prosecutrix. The applicant after having sexually exploited, avoided marrying the prosecutrix stating that she belongs to '*satnami* caste'. The prosecutrix later on, came to know that the applicant is a married person and he falsely

represented to the prosecutrix that he is an officer in the police department. When the prosecutrix ended her relation with the applicant, she was threatened. The prosecutrix was married to one Atul Rathore on 19.04.2018. When the applicant came to know about the marriage, he threatened the prosecutrix and said that despite such marriage, she will have to live according to the wishes of the applicant. Thereafter, number of criminal cases were registered against her father, husband and brother and she was threatened. She was time and again threatened by the applicant that her entire family would remain behind the bar and she was compelled to take divorce from her husband Atul Rathore. On 25.10.2019, when the prosecutrix went to the Kumhari Police Station and jail, the applicant met her and said that if she wants get her brother, husband and father released, she will have to go along with the applicant. It is alleged that thereafter, she was taken in the hotel and intoxicant was added in drinks and then she was subjected to rape. The prosecutrix was further threatened that if she discloses, her brother, husband and father would not be released from jail. Finally, her father, brother and her husband were released on 01.12.2019 and then again the applicant started compelling her to come along with him and when she did not go, the applicant again got an offence registered against her in the Kumhari Police Station, in which, she was arrested. That case has been lodged against the prosecutrix on the basis of a forged agreement dated 06.11.2019. In the handwriting expert report obtained by the prosecutrix, the affidavit is found to be not containing the handwriting or thumb impression of the prosecutrix. Therefore, the document is a forged one. In this manner, by lodging, one after the other, case against prosecutrix, her father, husband and brother, they all are being harassed and the prosecutrix is being sexually exploited. The prosecutrix has made allegation that the applicant threatened that he is in possession of obscene photographs and if the prosecutrix does not fulfill wishes, he will

make this photographs viral.

3. Learned counsel for the applicant argued that the entire case of the prosecutrix is completely false, fabricated and afterthought one. The applicant lodged an FIR on 18.04.2019 in the police station that the applicant is being threatened by Atul Rathore by sending whatsapp messages and photographs and thereafter, the prosecutrix, who is an old friend of the applicant gave him call stating that many things relating to her relationship with the applicant are being disclosed to her husband/Atul Rathore and if those messages and photos are made basis to disturb her marital life, she would also lodge report against the applicant and spoil his family life. On the basis of this report, action was taken against the prosecutrix, Atul Rathore and other persons, they were arrested and criminal case is going on. He further submits that during investigation, in the aforesaid case, statement of number of persons were recorded by the police and one Suresh Tharani also gave statement that he was also exploited by prosecutrix/Priyanka Lahre in the same manner as the present applicant and in this manner, prosecutrix is habitual of extorting money. Learned counsel for the applicant would further submit that the applicant had also lodged an FIR on 15.10.2018 against father of the prosecutrix, her brother & her husband/Atul Rathore that huge amount of money was collected from him by Hiraram Lahre and Atul Rathore in the name of providing employment to the applicant's brother and in this manner, he was cheated. In that case also, the prosecutrix, father Hiraram Lahre and her husband Atul Rathore were arrested. Thereafter, the prosecutrix as a counter case started making false report in the police station that the applicant is harassing and threatening to get her implicated in false cases. That complaint was thereafter withdrawn and then again new complaint were filed harassing the applicant, due to which, the applicant had also to report to the police in

writing regarding criminal act of the prosecutrix. He would also submit that on the complaint of the applicant, offence has also been registered against the prosecutrix. When these cases were registered against the prosecutrix or her father, husband, brother, now as counter-blast, the prosecutrix has come out with the false and fabricated story. The agreement dated 06.11.2019 is not a forged one because during investigation made in the police station, handwriting expert has reported that the agreement contains signature of the prosecutrix and even the notary has stated during investigation that prosecutrix had come in connection with execution of the said agreement.

4. On the other hand, learned State counsel and Objector oppose the prayer for grant of bail by submitting that the allegation made by the prosecutrix are very serious in nature. It is submitted that the applicant has reported number of cases against the prosecutrix, her father, her husband and brother. The allegation of the prosecutrix that prosecutrix was subjected to rape in the hotel on 25.10.2019 by the applicant against her wishes is highly probable because on that day, on the basis of the report lodged by the applicant, father, husband and brother of the prosecutrix, all were in jail and when prosecutrix had gone to police station and jail, she was picked up by the applicant and brought to the hotel. It is next submitted that the applicant is a habitual offender and against him, large number of criminal cases were registered which included cases of commission of offence under Section 376 of IPC as also under Section 420 of IPC and Arms Act. It is next submitted that the prosecutrix's allegation of forged document is also supported from material collected during investigation. It is also argued that the prosecutrix belongs to scheduled caste, therefore, there is a bar against grant of anticipatory bail, as provided under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. I have heard learned counsel for the parties and perused records.

6. In the present case, it is found that the applicant has lodged number of cases against the prosecutrix, her father, husband and brother. From the report lodged by the applicant as well as by the prosecutrix, it is prima facie revealed that prior to marriage of the prosecutrix with Atul Rathore on 19.04.2018, there were relation between the applicant and prosecutrix. However, the prosecutrix's allegation is that even after her marriage with Atul Rathore, the applicant has been insisting on her to continue to have relation. The allegation of the prosecutrix of she having been subjected to rape on 25.10.2019 in a hotel by the applicant is in the background that on that day, when she had gone to meet her father, brother and husband in the police station and then in jail, she met with the applicant and then the applicant brought her to the hotel and stated that if she does not act according to his wishes, her father, husband and brother would remain in jail. Therefore, the prosecutrix's allegation that the sexual intercourse with her on 25.10.2019 was an act of exploitation by the applicant cannot be said to be totally without any basis. Moreover, large number of criminal cases were registered against the applicant, though in most of the cases, the applicant has been acquitted, as argued by learned counsel for the applicant. Even though, number of criminal cases are still pending against the applicant. The allegations against the applicant of harassing, sexually exploiting the prosecutrix and also allegation of extortion and cheating. Therefore, in the totality of the circumstances, present is not a fit case for grant of anticipatory bail. The application is, therefore, rejected.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E