

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 195 of 2020**

- Smt. Kamla Gupta W/o Shri Om Prakash Gupta Aged About 52 Years
Resident Of Near Krishna Hospital, New Rajendra Nagar, Police
Station- New Rajendra Nagar, Raipur, District- Raipur Chhattisgarh,

---- Applicant**Versus**

- The State Of Chhattisgarh Through Police Station- Mahila Thana,
District- Raipur Chhattisgarh

---- Respondent

For Applicant	:	Mr. P.N. Bharat, Advocate.
For Respondent/State	:	Mr. Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****17/06/2020**

Heard.

1. The applicant is apprehending her arrest in connection with Crime No.03/2020 registered at police station–Mahila Thana, District- Raipur (C.G.) for alleged commission of offences under Sections 04, 06 of the Protection of Children from Sexual Offences Act, 376, 376(3), 376(2)(f), 376C, 370, 370A(1), 506-II/34 of the I.P.C. & 79 of the Juvenile Justice (Care and Protection of Children) Act.

2. Prosecution case is that the prosecutrix, minor, was left in the house of Om Prakash Gupta, husband of present applicant for undertaking her studies. It is alleged that during the period from 2016 to 2019, minor prosecutrix was subjected to sexual offence and also sexual assault by Om Prakash Gupta. Further case of the prosecution is that when present applicant was informed regarding sexual exploitation, present applicant threatened the prosecutrix that she would be murdered.

3. Learned counsel for the applicant argues that the allegation of the prosecutrix is against co-accused Om Prakash Gupta, who has already been arrested and against whom, trial is going on. He would submit that the allegation against the present applicant, who is the wife of Om Prakash Gupta, is that she threatened prosecutrix which is false and afterthought. It is argued that in the FIR and statement under Section 161 Cr.P.C., there was no allegation of those nature against the present applicant but for the first time

when prosecutrix was examined under Section 164 Cr.P.C., it is being alleged that applicant threatened the prosecutrix that she would be murdered. The present applicant is not involved in the alleged commission of sexual offence by her husband with the prosecutrix because the allegation of sexual exploitation by the co-accused is that when prosecutrix was residing separately with the co-accused in the another house, she was sexually exploited.

4. On the other hand, learned counsel for the State opposes the bail application.

5. On prima facie consideration, the material reveals that the allegation of commission of sexual offence is against Om Prakash Gupta. According to prosecution case and FIR, Om Prakash Gupta committed sexual offence against minor prosecutrix. In the FIR and statement under Section 161 Cr.P.C., there was no allegation made against the present applicant except that present applicant required prosecutrix to do excessive domestic work. For the first time in the statement under Section 164 CRPC, it has come that when the present applicant came to know about sexual exploitation of the prosecutrix, she also threatened the prosecutrix. Therefore, in the opinion of this Court, present is a fit case for grant of anticipatory bail. The bail application is accordingly 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)
Judge