

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 173 of 2020**

- Akash Yadav S/o Late Arun Yadav Aged About 25 Years R/o Jabdapara, Sarkanda, Bilaspur , District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh through Police Station Arjuni , District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Respondent

For Applicant : Mr. Pallav Mishra, Advocate.
For Respondent/State : Mr. Vimlesh Bajpai, Govt. Advocate.

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Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****24-06-2020**

Heard.

1. The applicant has preferred this bail application under Section 438 of Code of Criminal Procedure 1973 for grant of anticipatory bail apprehending his arrest in connection with Crime No. 233 of 2019 registered at Police Station Arjuni, District Dhamtari (C.G.) for alleged commission of offence under Sections 342, 366, 376 and 506 of IPC.

2. Case of the prosecution is that while prosecutrix was doing her computer course at Mungeli, the applicant also used to come there and tease, but she could not gather courage to inform her family members. In the year 2018 when she was selected in Physics

Aptitude Test (PAT), she came to join her Horticulture College at Potiyadih, Dhamtari and there also, the applicant used to come and harass her. On 18-4-2019, applicant came there and forcefully took the prosecutrix away and compelled her to marry, failing which he would assault and also throw acid on her family members and also set the hostel on fire and thereafter, she was taken by the applicant to Arya Samaj, Raipur on 19-4-2019 and she was compelled to marry and thereafter, applicant kept her in hotel and committed rape on her. She could not inform anyone because of threats given to her by the applicant. Finally, prosecutrix was left behind by the applicant at Simga bus stand on 30-9-2019. Thereafter, she informed her father about the incident and the matter was reported in Police Station.

3. Learned counsel for the applicant submits that the allegations of kidnapping and commission of rape against the applicant are highly improbable. He would further submit that the prosecutrix is a major girl and even, according to the prosecutrix, she and the applicant were known to each other since long. The allegations that against her wishes, the applicant had taken her away from her hostel, brought her to Raipur, got marriage solemnized and subjected her sexual intercourse for about five months before she was left behind by the applicant, are highly improbable. It is further submitted that the applicant and the complainant are husband and wife and their marriage was duly solemnized and because of certain disputes, such kind of false and fabricated allegations have been

leveled against the applicant. The applicant is even now prepared to keep his wife with him and discharge marital obligation, therefore, in these circumstances, may be protected by anticipatory bail.

4. On the other hand, learned counsel for the State opposing the prayer for grant of anticipatory bail would submit that the prosecutrix has lodged a report in which she has very categorically stated that the applicant had been teasing her since long and finally against her wishes he had taken her to Raipur and performed marriage against her wishes and also committed sexual act, amounting to rape. The matter could not be reported by the prosecutrix during that period, because of the threats given by the applicant and it is only when the prosecutrix came out of fear, the matter was disclosed to her parents and, thereafter, the report was lodged.

5. Taking into consideration the submissions of learned counsel for the parties, perusal of the report and disclosure made by the State on the basis of contents of the case diary, on *prima facie* consideration, it is clear that the prosecutrix is a major girl. Even, according to the prosecutrix, she and the applicant are known to each other since long time. Though, prosecutrix states that she was being subjected to eve-teasing by the applicant since long, there is no report made anywhere and not even disclosed to her family members. Further, according to the prosecutrix, she was brought from Dhamtari to Raipur and marriage was solemnized and even at that time, prosecutrix did not lodge any report. According to the

prosecutrix, marriage was solemnized on 19-4-2019 in Arya Samaj, Raipur. Even, at that time, prosecutrix did not report the matter that the marriage is being solemnized against her wishes and on any threat. It is only after five months of that marriage, report has been lodged. Therefore, there is considerable force in the submission of learned counsel for the applicant that present is a case of fabricated and false implication.

6. Without further commenting on the merits of the case as it is subject matter of consideration in the detailed trial, in the considered opinion of this court, present is a fit case for grant of anticipatory bail, particularly, taking into consideration the fact that even according to the prosecutrix, the marriage of applicant and the prosecutrix was solemnized on 19-4-2019 and at that time, prosecutrix was a major girl.

7. Accordingly, the application is allowed and 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

Raju