

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 233 of 2020**

Anil Das Mahant s/o. Janpad Das Mahant, aged about 29 years, resident of village Rairumakhurd, Police Chowki Rairaumarkhurd, Police Station Dharamaigarh, District Raigarh. Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through- The Station House Officer Police Station- Dharamjaigarh, District Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Mrs. Madhunisha Singh, Advocate.
For Respondent/State	:	Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****19-06-2020**

Heard.

1. The applicant has preferred this bail application under Section 438 of Code of Criminal Procedure for grant of anticipatory bail apprehending his arrest in connection with Crime No. 169 of 2019 registered at Police Station Dharamjaigarh, District Raigarh (C.G.) for alleged commission of offence under Section 376 of IPC and Sections 3(1)(B)(1) and 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the Act, 1989”).

2. Case of the prosecution is that the present applicant on the false pretext of marriage had been sexually exploiting the prosecutrix since 2013 and despite repeated insistences of prosecutrix, he did not perform marriage and when prosecutrix became pregnant, the applicant did not support and left her. Further case of the prosecution is that the relations were being maintained by the applicant since 2013 and at that time prosecutrix was a minor.

3. Learned counsel for the applicant would argue that no case is made out against the applicant because even according to the statement of the prosecutrix, applicant and prosecutrix were having love affair and they were in live in relationship. She would further submit that prosecutrix has not stated as to when sexual intercourse was performed by the applicant. While in FIR she has stated that relations were being maintained since 2013, in her statement recorded under Section 161 of Cr.P.C., the allegation of commission of sexual intercourse is said to be from 2015. Therefore, no case of commission of offence as alleged can be said to be made out against the applicant.

4. On the other hand, learned counsel for the State opposes prayer for grant of anticipatory bail and submits that specific allegation of the prosecutrix is that on false pretext of marriage the applicant had sexually exploited her and finally as a result of their long relationship, she became pregnant and at that time, the applicant failed to discharge his obligation and did not go for

marriage.

5. Having considered the submissions of learned counsel for the parties and on prima facie consideration, as stated in FIR itself, prosecutrix was having love affair and live in relationship with the applicant since 2013. Prosecutrix stated that their marriage could not materialize because of denial on the part of the applicant. While in the FIR, it is stated that the parties were having relationship since 4-4-2013, in the diary statement it is said to have begun from 2015. There is no clear statement as to on which date, the applicant had first sexual intercourse with prosecutrix. FIR was lodged on 21-9-2019 and prosecutrix states that she is 24 years of age, that means prosecutrix attained majority in the year 2013 itself. Therefore, in these circumstances, even if the statement with regard to date of commission of offence is taken on its face value, prima facie, a case is made out in favour of the applicant that there was affair and there was no compulsion on prosecutrix to have sexual intercourse with the applicant..

6. In view of the foregoing, this is an exceptional case where in view of the orders passed by this Court in **Satyaprakash vs. State of CG¹ & Abdul Abbas Vs. State of CG²** bar under Section 18 of the Act 1989 would not come in the way of admitting the applicant to benefit of anticipatory bail.

7. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid

1 2004(1) CGLJ 162

2 2005(2) CGLJ 235

offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- 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