

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 237 of 2020

Arvind Kantode S/o Shri Sudhakar Kantode Aged About 40 Years R/o, Near Chiranjivi Kirana Store, Sant Ravidas Nagar Bhilai, Tahsil And District Durg, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer Durg, District : Durg, Chhattisgarh

---- Respondent

For Applicant/s	:	Shri Rahil Arun Kochar, Advocate
For State	:	Shri Sudeep Verma, Dy. G.A.
For Objector	:	Shri Basant Dewangan, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19.06.2020

Heard.

The applicant is apprehending his arrest in connection with Crime No.14/2020 registered at Police Station – Bhilai Bhatti, District – Durg, (CG) for alleged commission of offence under Section 376 of the IPC.

2. Prosecution case is that the applicant sexually exploited the prosecutrix and committed sexually intercourse with her, since long time prior to the date of lodging report, when the prosecutrix was a minor. According to the prosecutrix, the applicant who was already a married person started having relation with the prosecutrix saying that he will treating her as his wife and a child is also born out of their relationship, but the applicant is not treating her as his wife nor the children.

3. Learned counsel for the applicant would submits that the allegations against the applicant are completely false and after thought. He would submit that the prosecutrix earlier kept on making the complaint in the police station that the applicant is her husband and he is neglecting to maintain his wife and children. He further submits that, in-fact, the complainant claiming herself to be the wife of the applicant, receiving maintenance also for herself and the children, but, later on there

was some dispute with regard to payment of maintenance, she again lodged report in the police station and in the police station, the case was closed because of compromise between the parties. Having entered into compromise with the applicant on two occasions as an after thought, complaint/report has been filed.

4. On the other hand, learned State counsel opposes and submits that according to the report lodged by the prosecutrix, the applicant is sexually exploiting her since last 12 years, the prosecutrix's date of birth is 18.02.1990, that means in the year 2008, she was a minor. The report is specific, containing material allegations, therefore, a case is made on *prima facie* consideration.

5. It is apparent that the prosecutrix, prior to lodging the present report, claimed her self to be the wife of the applicant and also stated that the child is born out of their wed lock, she earlier claimed for maintenance and also being awarded some payments in various compromise recorded through agreements between the parties. It is now that the prosecutrix has started making allegation of commission of rape stating that the applicant already had a wife and he sexually exploited her, therefore, in the considered opinion of this Court, present is a fit case for grant of anticipatory bail to the applicant.

6. Accordingly, this application is allowed. 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 he 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 the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicant 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