

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 227 of 2020

Ramavtar Gupta S/o Shri Lakshmidayal Gupta, aged about 45 years
Occupation - Provision Store, (Manihari Shop), Navin Bazar, Kawardha,
R/o Ghothiya Road, Ward No. 25, Kawardha, Police Station And Tahsil -
Kawardha, District Kabirdham Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh through District Magistrate Kabirdham Chhattisgarh.
2. Memvati Mehra D/o Kalu Ram Mehra & W/o Nirpat Singh, aged about 40 years, Present Address-Near Old District And Sessions Court (Kachahari), Sakarha Ghat Marg, Kawardha, Tahsil Kawardha, District Kabirdham Chhattisgarh.

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate.
For Respondent/State	: Mr. Anand Verma, Dy. G.A. along with Mr. Pragyaditya Acharya, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

13/03/2020

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with crime no. 247/2019, registered at Police Station: Kawardha, District-Kabirdham (C.G.) for the offence punishable under Section 323, 506, 376 of IPC and Section 3 (2) (v) of SC & ST (Prevention of Atrocities) Act.
2. As per the prosecution story, on 22.05.2019, prosecutrix who is aged about 24 years lodged a report in the concerned police station alleging *inter alia* that, in the intervening night of 21-22.05.2019 at around 12' O'clock, the present Applicant who is her landlord knocked the door of her room. The prosecutrix inquired and the present Applicant told his name and asked her to open the door. When she refused to do so, allegedly, the Applicant forcibly broken the door and entered inside her room and committed forcible sexual intercourse with the prosecutrix and after the

incident, he threatened the prosecutrix to life if she tells anyone about the incident. On the basis of said, offence has been registered. Thereafter, the Applicant moved an application for grant of anticipatory bail under Section 438 of Cr.P.C. before the Court of Additional Sessions Judge, Kawardha (C.G.) which was allowed vide order dated 14.11.2019 by the learned Additional Sessions Judge (F.T.C) Kawardha (C.G.) thereafter, during the course of investigation, police also registered case under Section 3 (2) (v) of SC & ST Act therefore, the Applicant is apprehending his arrest and the present Applicant has filed this application for grant of anticipatory bail.

3. Learned counsel appearing on behalf of the applicant submits that the applicant has been falsely implicated in the present case. He submits that the prosecutrix is habitual to lodge false and fabricated report and she lodged the said false report against the Applicant on 22.05.2019 bearing Crime No.247/2019 whereas another report was lodged by the prosecutrix on 16.06.2019 against one Sunil Bandle bearing Crime No.280/2019 for the offence punishable under Section 294, 323 & 376 of IPC. He further submits that virtually the Applicant is the landlord of the prosecutrix, and she started refusing to give rent to the Applicant. On being asked about the rent she used to warn him that she will lodge false and fabricated report against the Applicant therefore, the Applicant filed suit of eviction on 17.05.2019 and therefore to take revenge and counter-blast, false and fabricated report was lodged by the prosecutrix on 22.05.2019. He further submits that earlier on investigation report of the prosecutrix, it was found that false and fabricated report was lodged by the prosecutrix and on this ground the prosecution filed a closure report before the concerned Magistrate and made recommendations for registering the case against the prosecutrix under Section 211 of IPC. However, the closure report has not been accepted by the concerned Magistrate. Thereafter, police lodged offence under Section 3 (2) (v) of SC & ST Act. Since, the complainant has falsely implicated the Applicant and other persons therefore, considering the above in this case learned Additional Sessions Judge (F.T.C.) earlier granted anticipatory bail to the Applicant and after that a closure report was also filed by the prosecution on the ground that prosecutrix made a false and fabricated report, therefore it is established that Prima Facie no case of rape is made out against the Applicant. Thus, offence under Section 3 (2) (v) of Atrocities is also Prima Facie not made out. It is lastly submitted by counsel for the Applicant that earlier the Applicant already granted benefit of anticipatory bail by the Court of

Additional Sessions Judge, Kawardha (C.G.) and the Applicant had not misused the liberty therefore, he prays for grant of anticipatory bail to the Applicant.

4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for the parties.
6. Considering the facts and circumstances of the case and particularly considering the fact that earlier anticipatory bail application of the Applicant was allowed by the Additional Sessions Judge, Kawardha (C.G.) on the ground that complainant made several complaint against other persons also for commission of rape and other offences and further considering the fact that earlier prosecution itself filed a closure report and made recommendation for registration of crime against the prosecutrix under Section 211 of IPC, without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant of anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:-
 - I. That the accused/applicant shall made himself available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/applicant 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/her from disclosing such facts to the Court or to any police officer;
 - III. The accused/applicant shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
 - IV. 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.

Sd/-

(Arvind Singh Chandel)
Judge