

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 244 of 2020

Avinash Paikra S/o Amar Sai Paikra Aged About 38 Years Occupation Shiksha Karmi, R/o Village Parvatipur, Bargidih, Ps And Tahsil Lundra, District- Surguja, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Lundra, District- Surguja, Chhattisgarh.

---- Respondent

For Applicant : Mr. Rakesh Kumar Jha, Advocate.

For Respondent/State : Mr. Amit Verma, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/03/2020

1. The applicant has filed this second 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. 134/2019, registered at Police Station Lundra, Distt. Surguja Chhattisgarh for the offence punishable under Sections 376 (2) (᳚) of the IPC.
2. First bail of the applicant was dismissed for want of prosecution vide order dated 03.02.2020 passed in MCRCA no. 2148/2019.
3. In this case, the prosecutrix is aged about 28 years and she is an unmarried lady. As per prosecution story, on 08.11.2019, the prosecutrix has made a written report in concerned Police Station alleging therein that on the pretext of marriage, the applicant committed sexual intercourse with her since 2001 on various occasions. It has been further alleged that on 30.07.2017, engagement ceremony has been done between them and the applicant said that he will perform marriage with the prosecutrix next year. In the next year, their marriage cards have been distributed but

the applicant averted to marry with the prosecutrix. On 03.11.2019, the applicant performed engagement with one Suganti Paikra. On the basis of said background, offence has been registered.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. No case can be made out against the applicant. He further submits that virtually in the year 2017, the marriage between the parties was fixed but later on the family members of the prosecutrix averted the issue of getting married between the applicant and the prosecutrix. The prosecutrix herself stated with the applicant that she wants to marry with him after getting a job. Thereafter, a dispute has been taken place between them, therefore, a false and fabricated report has been lodged by the prosecutrix. The Counsel further submits that if the entire case taken as it is, it seems that the prosecutrix was a consenting party in the alleged act. The Counsel finally submits that the applicant is a reputed person of his society, he is a permanent resident of above mentioned address and there is no chance of his absconding, therefore, he may be granted benefit of anticipatory bail.
5. Per contra, learned counsel appearing on behalf of State opposes the bail application.
6. I have heard learned Counsel for both the parties and perused the case diary minutely.
7. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.
8. Accordingly, the anticipatory bail application is allowed.
9. 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 solvent 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 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