

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 261 of 2020**

- Abhishek Sharma @ Abhishek Vishwakarma S/o Lalmani Vishwakarma Aged About 28 Years R/o Jalalpur Sehara , Police Station Mahrui Bazar, District Ambedkar Nagar Uttar Pradesh., District : Ambedkar Nagar *, Uttar Pradesh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Khamtarai , District Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Arun Kochar, Advocate.
For Respondent/State	:	Mr. Sudeep Verma, Dy.G.A..
For Objector	:	Mr. Yogesh Pandey, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****23-06-2020**

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.545 of 2019 registered at Police Station Khamtarai, District Raipur (C.G.) for alleged commission of offence under Sections 376 and 493 of IPC.
2. Case of the prosecution is that the applicant, giving false pretext and assurance of marriage sexually exploited the prosecutrix since 24-8-2012 and after seven years of long, live in relationship, left the prosecutrix and did not marry her. It is also alleged that the

applicant indulged in extortion of money from the prosecutrix and her father, on the threat of making viral, obscene video clippings. Further case is that the fact that the applicant had no intention to marry the prosecutrix, is established from his act of entering into marriage on 20-2-2020 with another girl.

3. Learned counsel for the applicant submits that from the contents of the FIR itself, it is admitted position that the prosecutrix had love affair with the applicant and at that time, she was 26 years of age. She went along with the applicant leaving her house and stayed in live in relationship with the applicant for about seven years and thereafter, she had lodged report on 11-10-2019. It is further submitted that the prosecutrix and her father are making allegations of extortion and demand of dowry, therefore, no, prima facie, case is made out against the applicant and it is a case of false implication, therefore, in these circumstances, he may be protected by anticipatory bail.

4. On the other hand, learned counsel for the State as well as counsel for the Objector, opposing the prayer for grant of anticipatory bail would submit that even if it is accepted that the prosecutrix had affair and resided with the applicant in live in relationship for about seven years, consensual sexual relation on false pretext of marriage cannot be said to be free consent and therefore, this would amount to rape. It is also submitted that the applicant has also prepared obscene video and clippings by threatening the prosecutrix and her father and indulged in extortion

of money, also claiming huge amount as consideration for solemnization of marriage with the prosecutrix, therefore, present is a case of sexual exploitation and no consensual live in relationship.

5. On *prima facie* consideration, as is reflected from the FIR itself, prosecutrix was having an affair with the applicant. She left her house without informing anybody and ran-away with the applicant on 29-8-2012 and, thereafter, she was residing with the applicant at Delhi for about seven years and thereafter, she lodged report on 11-10-2019 making allegation that on assurance of marriage the applicant had committed sexual intercourse with her and that her video clippings were prepared. In the FIR or in the case diary statement, no specific date month or year has been shown either by the prosecutrix or by her father or any relative in which, so called video clippings were prepared, therefore, the submission of learned counsel for the applicant has considerable force that present is a case of false implication when seven years of live in relationship between the parties was broken because of certain disputes, therefore, present is a fit case for grant of anticipatory bail.

6. 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