

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 271 of 2020

Abhi Barua @ Abhijeet Barua S/o Shri Suneel Barua Aged About 41 Years R/o Housing Board Colony, Deorikhurd, Thana- Torwa, Ghatna Thana- Torwa, District- Bilaspur, C.G.

---- Applicant

Versus

State Of Chhattisgarh Through SHO, P.S.- Torwa, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant/s	:	Shri Yatharth Singh, Advocate
For State	:	Shri Siddharth Dubey, Dy. G.A.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24.06.2020

Heard.

The applicant is apprehending his arrest in connection with Crime No.24/2020 registered at Police Station – Torwa, District – Bilaspur, (CG) for alleged commission of offence under Sections 376 and 506 of the IPC.

2. Prosecution allegation is that the applicant sexually exploited the prosecutrix on false pretext of marriage. According to prosecution, the applicant himself is a married person and this fact was suppressed from the prosecutrix and when prosecutrix came to know that the applicant is a married person and he was not prepared to marry the prosecutrix, report was lodged in the police station.

3. Learned counsel for the applicant would argue that the allegation of commission of offence under Section 376 of the IPC is after thought. He would submit that even according to prosecutrix, she is a major lady. The prosecutrix was fully knowing about the marital status of the applicant. She was maintaining sexual relation with the applicant and in course of this, she started blackmailing the applicant. It is submitted that the prosecutrix is in the habit of making such kind of allegations. Against one Narayan Patekar, she had earlier levelled similar allegation

for which, Narayan Patekar was prosecuted and finally acquitted vide judgment dated 30.05.2016, passed in Sessions Trial No.92/2014. Referring to the charge sheet filed in that case, it is put forth that the allegations against that person are similar as against the present applicant, which shows that the prosecutrix is falsely implicating to extract money by entering into relationship with different persons. It is further submitted that prosecutrix claims herself to be the wife of Narayan Patekar and had applied for grant of maintenance before the Jurisdictional Magistrate. A copy of the said application is also placed on record.

4. On the other hand, learned State counsel opposes and submits that as per report of the prosecutrix, the applicant had developed relations with her without disclosing that he is a married person. According to the FIR and the 164 Cr.P.C., the prosecutrix and applicant were maintaining relations for the last one year and later on the applicant started avoiding the prosecutrix and upon enquiry, prosecutrix came to know that applicant is a married person. When the applicant did not marry the prosecutrix and threatened, the prosecutrix had to lodge a report against the applicant in the police station. He would submit that consent of the prosecutrix was obtained on false pretext of marriage, therefore, it could not be said that free consent, a case under Section 376 has been made out.

5. Upon prima facie consideration, even according to prosecutrix who is a major lady, she and applicant were maintaining sexual relations for last one year as stated by her in her 164 Cr.P.C. statement. Moreover, from the perusal of the judgment dated 30.05.2016 passed in Sessions Trial No.92/2014, it is reflected that the prosecutrix had made similar allegation against one Narayan Patekar, however, he was acquitted. It is also found that the prosecutrix at the same time claims to be married wife of Narayan Patekar as she had moved an application for grant of maintenance before the Family Court, therefore, in view of above consideration and submission of learned counsel for the applicant, that it is a case of false implication, cannot be ruled out and require trial. For that reason, I am inclined to grant 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.

7. Before parting with the case, it has to be observed that observations are have been made limited only for the purposes of considering anticipatory bail application. The trial Court shall not be influenced by this observation and decide the case on the basis of evidence collected during trial.

8. Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge