

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 297 of 2020

- Anil Kumar @ Kedarnath Sahu S/o Shri Teklal Sahu Aged About 34 Years R/o Village Salhegori, Police Station Lormi, District Mungeli (C.G.), Presently Residing At-652 Coy Asc (Civ Gt) Imtrat Pin Code 905652, C/o-99 Apo, District : Mungeli, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Of Police Station Lormi, District Bilaspur Now Mungeli (Chhattisgarh), District : Mungeli, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Praveen Dhurandhar, Advocate with Mr. Vivek Singhal, Advocate.
For Respondent/State	:	Mr. Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/06/2020

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.100/2013 registered at police station– Lormi, District Mungeli (C.G.) for alleged commission of offence under Section 376 of Indian Penal Code.

2. The prosecution case is that on false pretext of marriage, the applicant kept on sexually exploiting the prosecutrix on the basis that in times to come, they are going to be married, later on, in the name of demand of dowry, the parents of the applicant and the applicant did not go for marriage and broke relationship.

3. Learned counsel for the applicant submits that the applicant is an Army man. He was posted at different places. Recently when he visited his village, he came to know that a crime in Crime Number 100/2013 has been registered in Police Station- Lormi, District- Mungeli, long back levelling an allegation of commission of offence under Section 376 of I.P.C. by the complainant against the applicant. Apprehending that he may be arrested, in connection with that

Crime Number, he moved an application for grant of anticipatory bail before the learned Sessions Judge but the application has been rejected on the ground that the case appears to be 7 years old and diary is not available and further without case diary, no bail can be granted. Therefore, the application has been rejected without consideration on merits.

4. Learned counsel for the applicant would submit that at this stage, when the State is coming out with stand that case diary is not available, he may not be arrested. He would submit that he is an Army personnel and the written report in his possession does not make out any case against him.

5. On the other hand, learned counsel for the State submits that he is unable to make any statement because from the concerned Police Station, he has not received case diary or any other papers.

6. Considering the material on record, it appears that the present application has been moved on the basis of some FIR registered against the applicant on 25.03.2013 in Police Station- Lormi, District- Mungeli in Crime Number 100/2013, copy of which has been filed before this Court. Learned State Counsel is not even able to produce copy of FIR, if maintained in the Police Station. Therefore, in these circumstances, particularly taking into consideration that FIR has been lodged by Ku. Rekha Sahu and on the basis of her written complaint, wherein, she has stated that an engagement was performed between applicant and complainant long back and for some time, they were having physical relationship also but ultimately, the marriage could not materialise, prima facie, there is considerable force in submission of learned counsel for the applicant, even if, the allegations contained in the written report are accepted, as it is, there is no ingredient of commission of offence under Section 376 I.P.C. Therefore, I am inclined to grant the anticipatory bail, application is accordingly allowed.

7. Accordingly, 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)
Judge

Ravi