

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 401 of 2020

Chandrakanti Chouhan W/o Jeevardhan Chouhan Aged About 25 Years R/o-
Village- Peehara, P.S.- Sariya, District- Raigarh (C.G.), District : Raigarh,
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station-
Lailunga, District- Raigarh, C.G., District : Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Shri Hari Agrawal, Advocate
For State	:	Shri Dinesh Tiwari, Dy. Govt. Advocate

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

Order On Board

26/06/2020

Heard.

1. The applicant has filed this application for grant of anticipatory bail under Section 438 Cr.P.C. as she is apprehending her arrest in connection with Crime No. 87/2019, registered at Police Station -Lailunga, District- Raigarh (CG) for the offence punishable under Sections 376 read with Section 34 IPC.
2. Case of the prosecution is that on 17.5.2019, a report was lodged by the prosecutrix that on 7.5.2019, marriage of prosecutrix was to be performed and the co-accused Sushil and the prosecutrix were known to each other and were on talking terms. Co-accused- Sushil kept her mobile SIM card and he gave a call to the prosecutrix on 4.5.2019 at around 12:00 PM in the night and when prosecutrix came down to him, co-accused Sushil took the prosecutrix to different places in the motorcycle and it is alleged that he committed rape on her. The allegation against the present applicant is that present applicant is the sister of main accused- Sushil and she also

accompanied to different places in the motorcycle along with the co-accused and the prosecutrix.

3. Learned counsel appearing on behalf of the applicant submits that the allegation of commission of offence under Section 376 IPC are alleged against co-accused Sushil. Apart from prosecution story being improbable, it is submitted that even according to the prosecutrix, she was known to the main accused since long and they were having relation. Co-accused Sushil has been granted regular bail by this Court taking into consideration a probable case of consent between the prosecutrix and co-accused Sushil and further that prosecutrix is major aged 24 years. Therefore, it is submitted that as far as present applicant is concerned, she is nowhere involved in the alleged commission of offence.
4. Per contra, learned counsel appearing on behalf of the State opposes the bail application. He submits that the allegation as stated by the prosecutrix are that she was taken away by the co-accused in a motorcycle, kept on different places and then she was subjected to rape. According to allegation of the prosecutrix, co-accused sister, the present applicant, also accompanied them, therefore, she is equally involved in the offence of rape.
5. On prima facie consideration, this Court finds that the allegation of the prosecutrix are of commission of offence of rape by co-accused Sushil. The background in which the allegations are made, it is prima facie reflected that the prosecutrix and the co-accused Sushil were known to each other and before her marriage, it is stated, that co-accused Sushil had come to prosecutrix and in the midnight he had taken the prosecutrix along with him and thereafter she remained with him and during that period, it is said that she was subject to rape by the co-accused. Co-accused has been granted regular bail after arrest.

Considering the aforesaid circumstances and that present applicant is a lady, I am inclined to grant anticipatory bail to her.

6. Accordingly, the anticipatory bail application is allowed. 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/- along one local surety for the like

amount to the satisfaction of the arresting officer with following further conditions that:-

- (i) the applicant shall make herself available for interrogation by the police officer as and when required;
- (ii) the 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 from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge