

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 530 of 2020**

Sidhartha Mishra S/o Late Ashok Kumar Mishra, aged about 39 years, R/o Radhika Apartment Flats P.S. Supela Tehsil and District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh through the District Magistrate, Durg, District Durg (C.g.

---- Respondent

For Applicant	:	Mr. B.P. Singh, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

20/10/2020

1. The matter is heard through video conferencing.
2. The applicant has filed this application under Section 438 of the Cr.P.C for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 264/2020 registered at police station – Outpost Smriti Nagar P.S. Supela (C.G.) for the offence punishable under Sections 376 (2) (b) of the IPC.
3. In this case, the Prosecutrix is a major and married lady having two children. The applicant herein is also a married person. According to the case of the prosecution, the Prosecutrix was orally deserted wife and was living with her mother and two children. In the year, 2017 she was doing catering work. At that time, the applicant came in contact with her and

requested her to make physical relation with him. She narrated her prior story to the applicant that she is a married women and having two children, but the applicant gave assurance that he will keep her children with proper manner and acted mental pressure to live with him, then she used to live with the applicant for about two years. Thereafter, she became pregnant and when this fact came to the knowledge of the applicant, the applicant assaulted her and stated that he will not keep her because he is already a married person, thereafter, on several occasions the applicant had assaulted the Prosecutrix and refused the Prosecutrix to live with him. Thereafter, on 02/05/2020, FIR has been lodged by the Prosecutrix.

4. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. Both the applicant and the Prosecutrix are the married persons. From the contents of the FIR itself, it appears that both have resided live-in-relation for about two years. He further submits that in the month of March, 2020, the Prosecutrix first time made a complaint against the applicant. At that time, an inquiry was conducted by the concerned Police Station and during course of investigation, statements of Anita Pandey, (care taker of the house, where the applicant and the Prosecutrix used to reside) and one Sona distance relative of the Prosecutrix were recorded by the Police. They have categorically stated in their statement that from beginning the Prosecutrix knows the fact that the applicant is a married person, therefore, no action was taken on the complaint of the Prosecutrix. Thereafter, on 02/05/2020 again the Prosecutrix has made this false and fabricated report against the applicant to create pressure and blackmailing him. He further submits

that since the Prosecutrix is a major married lady and from beginning she was well within the knowledge that the applicant is a married person, instead thereof, she developed physical relationship with the applicant. Therefore, the argument that the alleged act has been committed with the Prosecutrix on the pretext of marriage, is not accepted. Thus, he prays to extend the benefit of anticipatory bail to the applicant.

5. On the other hand, counsel appearing on behalf of the State opposes the bail application.
6. I have heard counsel for the parties.
7. Considering the facts and circumstances of the case, particularly the argument advanced by the counsel for both the parties, and that the fact that both the applicant and the Prosecutrix are married and major persons, and from the statement of Anita Pandey and Sona recorded during inquiry, it appears that from beginning the Prosecutrix was well within the knowledge that the applicant is a married person, therefore, without further commenting on other merit of the case, in my considered view, it is a fit case to grant anticipatory bail of 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 bond in the sum of Rs.10,000/- with one 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, the accused/applicant shall make 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.

10. Certified copy, as per rules.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul