

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 596 of 2020**

Vipin Bhagat S/o Shri Sanar Sai Bhagat Aged About 23 Years Caste Urao, R/o Village Karmitikra, Thana Pathalgaon, District : Jashpur, Chhattisgarh

---- Applicant**Versus**

The State Of Chhattisgarh Through The Station House Officer, Police Station Pathalgaon, District : Jashpur, Chhattisgarh

---- Respondent

For Applicant : Mr. Sunil Sahu, Advocate
For Respondent : Mr. Alok Nigam, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**15/09/2020**

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. 249/2019 registered at police station – Patthalgaon, District Jashpur (C.G.) for the offence punishable under Section 376 of the IPC.
3. In this case the age of the Prosecutrix is 22 years. On 19.11.2019 a written report has been lodged by the prosecutrix alleging therein that on 13.03.2019 the applicant, on false pretext of marriage, had been committing sexual intercourse with her. Thereafter, on various occasions he committed sexual intercourse with her. Both had resided together for some months in a rented house and during this period

prosecutrix also got pregnant. The applicant thereafter refused to marry her. On the basis the complaint made by the Prosecutrix/Complainant, offence has been registered.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. If the entire case of the prosecution is taken as it is, yet it seems the Prosecutrix was the consenting party as she is a major lady, therefore, it cannot be accepted that the alleged act has been done with her on the pretext of marriage and, therefore, prima facie offence under Section 376 of the IPC is not made out against the applicant. He further submits that presently both the parties have settled their dispute and applicant and prosecutrix were decided to marry each other. The prosecutrix also submitted an affidavit in which she has stated that she has no objection in granting anticipatory bail to the applicant, therefore, he prays for grant of anticipatory bail to the applicant.
5. Learned counsel appearing on behalf of the State opposes the said application.
6. I have heard counsel for the parties.
7. Considering the facts and circumstances of the case, argument advanced by counsel for the parties and that the Prosecutrix is aged about 22 years and also considering the fact that applicant and prosecutrix are ready to marry each other, without further commenting on other merits of the case, I am inclined to grant anticipatory bail to 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