

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 612 of 2020**

Birendra Kumar (wrongly mentioned as Virendra) S/o Gorelal Satnami, aged 23 years R/o House No.- 50, Dahariya Para, Village- Khunta, Post Bharewa (Puran), P.S.- Kunda, Tahsil Pandariya, Distt. Kabirdham (C.G.)

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station- Kunda, Kabirdham (C.G.).

---- Respondent

For Applicant	:	Mr. V.C. Ottalwar, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate
For Objector	:	Mr. Aman Kesharwani, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board**15/07/2020**

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. 37/2020 registered at police station – Kunda, District Kabirdham (C.G.) for the offence punishable under Sections 376, 506 & 498 of the IPC.
3. In this case, the Prosecutrix is a married lady aged about 34 years. On 17/03/2020, she made a report alleging therein that since 2018, the applicant, on the pretext of marriage, has continuously committed sexual intercourse with her. He also resided with her for about 5-7 months. Thereafter, he left her. On the basis of the said report, offence has been registered.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated due to some dispute with the Prosecutrix. He further submits that the prosecutrix is a major lady. From the contents of the FIR, it is clear that she was the consenting party, therefore, if the entire case of the prosecution is taken as it is, yet no offence under Section 376 of the IPC is made out against the applicant and the act of the applicant may fall within the ambit of Section 497 of the IPC, but in this case no complaint has been made by the husband of the Prosecutrix.
5. Learned counsel appearing on behalf of the State and Objector opposes the said application. Counsel for the Objector submits that after this incident, the applicant has threatened the Prosecutrix and in this regard a report has been lodged by the Prosecutrix on 19/06/2020, therefore, he prays to reject the anticipatory bail application.
6. I have heard counsel for the parties.
7. Considering the facts and circumstances of the case and the argument advanced by counsel for the parties, particularly considering that the Prosecutrix is a major lady, she was the consenting party in the alleged act and she resided with the applicant for about 5 months, without further commenting on other merit of the case, I am inclined to extend the benefit of 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

Rahul