

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 764 of 2020

- Bhuvan Sahu S/o Dhansai Sahu Aged About 30 Years, Caste Teli, R/o Village- Bharvamuda, P.S. Tendukona, Tahsil - Pithora, District- Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Tendukona, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Shri Utkal Pradhan, Advocate.

For Respondent/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

25/08/2020

1. Heard through video conferencing.
2. The applicant has preferred the first bail application under Section 438 of Cr.P.C. for apprehending his arrest in connection with Crime No. 132/2019 registered at Police Station Tendukona, District – Mahasamund, (C.G.) for the offence punishable under Sections 376, 506 of the Indian Penal Code and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.
3. As per the case of the prosecution, prosecutrix is a widow lady aged about 25 years having one son. Applicant, herein, is a married person aged about 30 years having two children. On 17.12.2019, prosecutrix made a report alleging therein that from the year 2017, applicant, on

various occasions had committed sexual intercourse with her on pretext of marriage. They also resided for one month together in 2018 and thereafter, applicant refused to marry with the prosecutrix. On the basis of the said report, offence has been registered.

4. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to some dispute with the prosecutrix. He further submits that if the entire case is taken as it is, *prima facie*, no offence under Section 376 of the I.P.C. is made out. Contents of F.I.R. itself shows that from the beginning, prosecutrix was aware of the fact that applicant was a married person having two children. Therefore, the alleged act committed by the applicant is not acceptable. Since, offence under Section 376 of the IPC is not made out therefore, offence under Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act is also not made out. Thus, it is prayed that applicant may be granted benefit of anticipatory bail.
5. Learned Counsel appearing for the State opposes the bail application.
6. I have heard learned Counsel appearing for the parties and perused the material available.
7. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and further considering the fact that contents of F.I.R. itself shows that from the beginning, prosecutrix was aware of the fact that applicant was a married person having two

children, despite of that prosecutrix developed physical relationship with the applicant, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

8. Accordingly, the bail application is allowed.

9. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) 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 fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge