

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 825 of 2020**

Mohnish Vishvakarma S/o Shri Bhagwat Prasad Vishvakarma, aged about 34 years R/o Village – Chilhati, Police Station Pachpedi, Civil & Revenue District Bilaspur (C.G.), At present R/o Vishnu Chauk, Tifra, Police Station Sirgitti, Civil & Revenue District Bilaspur (C.G.)

---- Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police Station Bilha, Civil and Revenue District Bilaspur (C.G.).

---- Respondent

For Applicant	:	Mr. Amit Kumar, Advocate
For Respondent	:	Mr. Sudeep Agrawal, Dy. Advocate General

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**02/09/2020**

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. 58/2020 registered at police station – Bilha, Bilaspur (C.G.) for the offence punishable under Section 376 of the IPC.
3. In this case, the age of the Prosecutrix is about 21 years. The applicant herein is married person. On 16/03/2020, the Prosecutrix had lodged an FIR against the applicant alleging therein that initially there was love relationship between the applicant and the Prosecutrix and first time on 13/02/2020, the applicant committed sexual

intercourse with the Prosecutrix and thereafter on various occasions, he committed sexual intercourse with her on the pretext of marriage. On the basis of report made by the Prosecutrix, the police has registered the case against the applicant.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. Referring to the whatsapp chat of the applicant and the Prosecutrix and further referring to the photographs annexed with the petition, it is submitted that since the Prosecutrix was well aware of the fact that the applicant is married person, therefore, the allegation that the alleged act has been committed with her without disclosing the fact that he is married person, is not acceptable. He further submits that if the entire case of the prosecution is taken as it is, yet it seems that the prosecutrix was the consenting party. The Prosecutrix knows the fact that the applicant is married person, yet she developed physical relationship with him. Therefore, prima-faice no case is made out against 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 further considering the whatsapp chat of both the parties and photograph annexed with the petition, 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