

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 739 of 2020**

Sushil Kumar Nishad, aged about 42 years S/o Ramnarayan Nishad, R/o Bhuigaon Tahsil Charama, Distt. Uttar Baster Kanker (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Police Station Charama, Distt. U.B. Kanker (C.G.).

---- Respondent

For Applicant	:	Mr. Parag Kotecha, Advocate
For Respondent	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

05/08/2020

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. 100/2020 registered at police station – Charama, Kanker (C.G.) for the offence punishable under Sections 376 & 506 of the IPC.
3. In this case, the Prosecutrix is a married lady aged about 25 years. On 28/05/2020 she made a report alleging therein that initially on 25/05/2018 when she was alone in her house, the applicant entered into her house and committed forcible sexual intercourse with her. It has been further alleged that thereafter on various occasions, the applicant, on the pretext of marriage, made physical relation with her.

On the basis of 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 if the entire case of the prosecution is taken as it is, yet it seems that the Prosecutrix was the consenting party. He further submits that the applicant is married person having two children. Both the applicant and the Prosecutrix are residents of Kanker, therefore, the Prosecutrix was very well knowing the fact that the applicant is married person having two children, thus the allegation that the applicant developed physical relation ship with her on the pretext of marriage is not acceptable. Prima-facie no offence is made out against the applicant. He further submits that the FIR has been lodged after two years of the incident, therefore, the applicant may be extended the benefit of anticipatory bail.
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 that the Prosecutrix is a major married lady and the report has been lodged after two years of the incident, 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