

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 889 of 2020

- Dr. Vijay Kumar Kaushal S/o Mahajan Kaushal Aged About 33 Years R/o Krishna Nagar, Supela Bhilai, P.S. Supela, Tahsil and District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, Police Station Police Supela, District Durg, Chhattisgarh.

---- Respondent

For Applicant	: Shri Pushpendra Kumar Patel, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

18/09/2020

1. The matter is heard through video conferencing.
2. The applicant has preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 387/2020 registered at Police Station Supela, District – Durg, (C.G.) for the offence punishable under Sections 376, 506 of Indian Penal Code.
3. According to the case of the prosecution, prosecutrix is a girl aged about 23 years. Applicant herein is a married person aged about 33

years. On 25.6.2020 FIR has been lodged by the complainant/prosecutrix against present applicant wherein it has been alleged that prosecutrix used to study in coaching centre which was run by the applicant. Firstly, on 16.1.2017, applicant in his house committed forcible sexual intercourse with the prosecutrix. Thereafter, on various occasions applicant blackmailed the prosecutrix to viral her obscene videos on social media and continuously committed sexual intercourse with her. On 14.11.2019 also applicant took the prosecutrix to Simga and committed sexual intercourse with her. On 19.5.2020, applicant met prosecutrix at Bhilai and threatened her. Thereafter, on 25.6.2020 FIR has been lodged by the complainant/prosecutrix and 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. He further submits that if the entire case is taken as it is, *prima facie* no offence under Section 376 of IPC is made out against applicant. Also prosecutrix is a major girl and she was well aware of the fact that applicant was a married person and despite of that no complaint was made against him earlier. The alleged incident started from the year 2017 and FIR was lodged on 25.6.2020. According to the contents of the FIR, last incident of committing sexual intercourse occurred on 4.11.2019 and F.I.R. was lodged on 25.6.2020 i.e. after a gap of seven months. Also from the F.I.R. it appears that prosecutrix is a consenting party. 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 particularly considering the fact that prosecutrix is a minor girl and consenting party and last incident of committing sexual intercourse occurred on 4.11.2019 and F.I.R. was lodged on 25.6.2020 i.e. after a gap of seven months, 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/her 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

Prakash