

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 921 of 2020**

Dhirendra Singh Parihar S/o Jai Pratap Singh Parihar, aged about 48 years R/o Jail Colony Katghora, Tahsil Katghora, District Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh through Station House Officer, Icharge- Police Station Katghora, District Korba (C.G.)

---- Respondent

For Applicant	:	Mr. Anshul Tiwari, Advocate
For Respondent	:	Mr. Alok Nigam, Govt. Advocate

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 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. 191/2020 registered at police station – Katghora, District Korba (C.G.) for the offence punishable under Sections 376 & 450 of the IPC.
3. In this case the Prosecutrix is a married lady aged about 36 years. She is residing separately from her husband. The applicant herein is also a married person working as Paheri at Katghora, Jail. On 27/06/2020, the Prosecutrix lodged a report against the applicant alleging therein that initially before 6 years, the applicant and the Prosecutrix had developed relationship. Thereafter, prior to 6 months of the incident,

their relationship got ended. On 23/06/2020, when the Prosecutrix was alone in her house, the applicant came and committed forcible sexual intercourse with her. On the basis of above 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 in the present case. He further submits that from the contents of the FIR and objection raised by the Prosecutrix, it appears that she herself had developed relationship with the applicant. He further submits that if the entire case of the prosecution is taken as it is, prima-faice no case under Section 376 of the IPC is made out against the applicant as she is the consenting party in the alleged act. Virtually, the Prosecutrix had taken Rs. 1,70,000/- as loan from the wife of the applicant in the year 2019 and she had promised to return the same within 6 months. When the applicant and his wife asked her to return money, she refused to give and threatened to make a false complaint against the applicant, therefore, the applicant made a written complaint (Annexure-A-2) in this regard on 02/06/2020. He prays to extend the benefit of anticipatory bail to 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 after going through the contents of the FIR and the written complaint (Annexure-A-2) lodged

by the applicant, and also the objections raised by the Prosecutrix before the trial Court showing that there was previous relationship between the Prosecutrix and the applicant and she was the consenting party in the alleged act, 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