

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.928 of 2020**

Azhar Khan S/o Azim Khan Aged About 27 Years R/o Village Takiyapara
Durg, Police Station City Kotwali Durg, Tehsil And District Durg
Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through Police Station Supela, District Durg
Chhattisgarh

---- Respondent

For Applicant	:	Mr. Anurag Singh, Advocate.
For Respondent/State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****04/09/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.80/2020 registered at police station – Supela, District Durg (CG) for alleged commission of offence under Section 376, 493 of IPC.
2. Prosecution case is that the applicant entered into love affair with the prosecutrix since 2017 and thereafter, on the false pretext of marriage, sexually exploited her and thereby committed rape.
3. Learned counsel for the applicant would submit that present is a case of false implication and the FIR of the prosecutrix itself does not make out any prima facie case against the applicant. He would submit that the prosecutrix is a major girl and she had an affair with the applicant since 2017 and was also having sexual relationship which herself has stated. He would submit that FIR has been filed because of some dispute having arisen between the parties and therefore, the applicant may be protected by anticipatory bail.
4. On the other hand, learned counsel for the State opposes the prayer and submits that though the prosecutrix has stated that the applicant had entered into love affair since 2017 and it was also coupled with sexual intercourse from time to time, according to prosecutrix, this was agreed to by

the prosecutrix because of the assurance given by the applicant that in times to come, they will marry but the applicant is not marrying with the prosecutrix and threatening also. Therefore, prima facie case is made out as consent obtained on false pretext of marriage cannot be said to be free consent and it would therefore amount to rape.

5. Having heard the learned counsel for the parties and particularly taking into consideration the contents of report and FIR and the prosecutrix own version, she is a major lady and was having love affair with the applicant since 2017 and in that relationship, they had also sexual intercourse on many occasion and further the last such sexual intercourse is said to have been committed on 17.08.2019, according to the prosecutrix, occasion to lodge FIR arose when the applicant did not proceed for marriage, a case for grant of bail is made out.

6. Taking into consideration the aforesaid version of the prosecutrix, herself, in the considered opinion of this Court, present is a fit case for grant of anticipatory bail to the applicant, the application is allowed.

7. Accordingly, it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that 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 facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E