

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 939 of 2020**

- Munnalal Tande S/o Late Gangaram Tande Aged About 49 Years Presently Posted As Supervisor At Collectorate, Mahasamund, R/o H-03, Government Colony Clubpara, Mahasamund, District- Mahasamund, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through- Police Station- Mahasamund, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vaibhav A. Goverdhan, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.
For Objector	: Shri Roop Naik, 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 preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 313/2020 registered at Police Station Mahasamund, District – Mahasamund, (C.G.) for the offence punishable under Section 376 of Indian Penal Code.
3. According to the case of the prosecution, prosecutrix is a widow lady aged about 30 years. Applicant herein is also a married person aged

about 49 years. The alleged incident occurred between the period 1.11.2019 to 4.3.2020. At that time both applicant and prosecutrix were working together in the same office. Applicant was the Superintendent of that Office and prosecutrix was posted as peon there. On 3.7.2020 prosecutrix lodged a report alleging therein that between 1.11.2019 to 4.3.2020, applicant by stating himself as an unmarried person, committed sexual intercourse with the prosecutrix on pretext of marriage on various occasions. Later on applicant refused to marry with the prosecutrix. On the basis of the said report, 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 lady and she was well aware of the fact that applicant was a married person having children. Therefore, the alleged act committed by applicant on pretext of marriage is not acceptable. It is further submitted that earlier also prosecutrix had made report of gang rape against four persons. Subsequently, she herself appeared before the trial Court and submitted an affidavit stating that the report made by her is false. Thus, prosecutrix is habitual in making false allegations against person. Therefore, it is prayed that applicant may be granted benefit of anticipatory bail.

5. Learned Counsel appearing for the State and Objector 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 major lady and applicant is also a married person and F.I.R. has been lodged after a gap of about 3-4 months of the alleged act, 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