

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 955 of 2020

- Vinay Lakda S/o Rajaram Lakda Aged About 32 Years Resident Of Village Nonaijor , Chowki Rairuma Khurd, Police Station and Tahsil Dharamjaigarh, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dharamjaigarh, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant : Shri Ajeet Kumar Yadav, Advocate.

For Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

22/09/2020

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. 17/2020 registered at Police Station Dharamjaigarh (wrongly mentioned as Chhal in the impugned order), District – Raigarh, (C.G.) for the offence punishable under Sections 376 of the Indian Penal Code.
3. In the present case, prosecutrix is a widow lady aged about 28 years having two children. First marriage of the prosecutrix was solemnized with one Raj Kumar in the year 2010 and in the year 2018 her

husband died in an accident. On 8.2.2020 FIR was lodged by the prosecutrix/complainant alleging that from last one year, on pretext of marriage, present applicant has been committing sexual intercourse with her on various occasions. Thereafter, 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 both applicant and prosecutrix lived together as husband and wife for few months. They performed social marriage also. Due to some dispute, prosecutrix herself left her house, thereafter, lodged false and fabricated report against applicant. It is further submitted that if the entire case is taken as it is, prosecutrix seems to be a consenting party. Since, prosecutrix is a major lady and consenting party, *prima facie*, no offence under Section 376 of the IPC is made out against applicant. Looking to the above, 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.
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 after going through the contents of the FIR as well as documents annexed by the applicants and the fact that report has been lodged after a gap of one year of alleged incident,

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