

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.1071 of 2020**Order Reserved on : 8.10.2020Order Passed on : 13.10.2020

Vijay Nihichalani, son of Late Idandas, aged about 39 years, resident of Impresia Apartment, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh through Police Station Mana Camp, District Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Manoj Paranjpe, Advocate
For Respondent/State	:	Shri Alok Nigam, Government Advocate
For Objector	:	Shri T.K. Jha and Shri Ishan Verma, Advocates

Hon'ble Shri Justice Arvind Singh Chandel**C.A.V. ORDER**

1. The instant is first application for grant of anticipatory bail to the Applicant. He is apprehending his arrest in connection with Crime No.76 of 2020 registered with Police Station Mana Camp, District Raipur for offence punishable under Sections 354, 294, 323 of the Indian Penal Code.
2. The case, in brief, is that on 20.7.2020, a written report was lodged by the Complainant, a girl aged about 33 years against the present Applicant alleging *inter alia* that on 20.7.2020 itself at about 6:30 hours, when she was riding a bicycle on the airport road of Raipur, the Applicant came to her and started misbehaving with her. He

abused her and also physically touched her in order to outrage her modesty. She fell down. At that time, her brother also came there. When she complained to her brother, the Applicant tried to flee from the spot. When her brother inquired from the Applicant, he uttered obscene words and assaulted her and her brother in which they sustained injuries. On the basis of the written report, the police registered the aforesaid offence against the Applicant.

3. Shri Manoj Paranjpe, Learned Counsel appearing for the Applicant submitted that the Applicant has been falsely implicated in the case. The Applicant and father of the Complainant were business partners in a firm, namely, I.V. Enterprises having shops in Magneto Mall and Ambuja Mall situated at Raipur. A dispute arose in the said firm between the partners regarding payment of certain amount which was to be done on behalf of the father of the Complainant. Due to the said dispute, a false and fabricated report has been lodged against the Applicant. It was further submitted that the allegations are completely distorted and misplaced. The Complainant and the Applicant has been in love relationship for the last five years. Both have visited together to various places and also stayed together in a single room of different hotels. The places of their together visit and stay have been Kolkata, Chandigarh, Bangkok and Phuket. Both have done travellings together by train and air. Therefore, looking to this relationship between the Complainant and the Applicant, there would have been any attempt on the part of the Applicant to outrage modesty of the Complainant is suspicious. It was further submitted that the Complainant has developed her statements on every occasions. First, at the time of recording of her statement under

Section 161 of the Code of Criminal Procedure, she has developed her statement on material points. Thereafter, at the time of recording of her statement under Section 164 of the Code of Criminal Procedure also, she has developed her statement and in that statement, she, for the first time, has levelled allegations against brother of the Applicant also. This shows that she has developed her statements on every occasions to create pressure and implicate the Applicant falsely. Therefore, it was prayed that the Applicant may be granted benefit of anticipatory bail.

4. Shri Alok Nigam, Learned Government Advocate appearing for the Respondent/State and Shri T.K. Jha and Shri Ishan Verma, Learned Counsel appearing for the Objector jointly opposed the bail application. Learned Counsel Shri T.K. Jha submitted that there was a love relationship between the Applicant and the Complainant, but, according to Shri Jha, that relationship existed till January, 2020 only. A breakup has taken place between them and thereafter the Complainant has also blocked mobile number of the Applicant in her mobile phone. It was further submitted by Shri Jha that thereafter the Applicant, with a fake identification, has continuously been sending abusive messages to the Complainant. It was submitted by Shri Jha that therefore the argument that till the date of incident also the love relationship existed between the Complainant and the Applicant has no substance. It was further submitted by Shri Jha that the Applicant has also some criminal antecedents. It was submitted by Shri Jha that during pendency of the instant bail application, on a direction given by this Court on 30.9.2020, when the Complainant had come to the High Court premises to get her affidavit executed, on that day

also, the Applicant had abused her and he had also threatened her for withdrawing her case back. On these grounds, it was prayed that the Applicant may not be admitted to the benefit of anticipatory bail.

5. In reply, Shri Manoj Paranjpe, Learned Counsel appearing for the Applicant, referring to the incident took place on 30.9.2020, submitted that the fact of the matter is that in the said incident, brother of the Complainant had abused and assaulted the Applicant and in that assault he had also snatched the wrist watch of the Applicant. Thereafter, with an intention that the Applicant could not get anticipatory bail, the Complainant lodged the present false and fabricated written report against him. As regards continuation of the love relationship between the Complainant and the Applicant, Shri Paranjpe, referring to the call details of the Applicant, submitted that till 20.7.2020 telephonic talks had been taking place between the Applicant and the Complainant and, therefore, the argument of Learned Counsel appearing for the Objector that a breakup has taken place between the Complainant and the Applicant in January, 2020 has no substance.
6. I have heard Learned Counsel appearing for the parties. I have also minutely perused the contents of First Information Report, statements of the Complainant recorded under Sections 161 and 164 of the Code of Criminal Procedure, affidavits sworn in and submitted by the Applicant and the Complainant, other documents submitted by the Applicant and the Complainant, call details of the Applicant and other material available.

7. Having heard the arguments and perused the aforementioned documents, it appears that there was a love relationship between the Complainant and the Applicant. Both visited various places together and they also stayed together in a single room of different hotels at various places. After lodging of the written complaint against the Applicant by the Complainant, her statements were recorded under Sections 161 and 164 of the Code of Criminal Procedure. From perusal of those statements, it reveals that she has developed her statements on material points on both the occasions. It also appears that the Applicant and father of the Complainant were business partners in a firm and a dispute had arisen between them for payment of certain amount allegedly to be made on behalf of father of the Complainant. From perusal of the call details of the Applicant, it appears that the Applicant had continuously been telephonically calling the Complainant till 20.7.2020. On 17.7.2020 and 18.7.2020 also, long telephonic talks had taken place between the Applicant and the Complainant on different calls given by the Applicant to the Complainant. Looking to the different durations of the said telephonic calls, it does not appear that the Applicant would have been abusing the Complainant for such long durations.
8. As a result of the aforesaid discussion, without further commenting on other merits of the case, I am inclined to grant anticipatory bail to the Applicant.
9. Accordingly, the application for grant of anticipatory bail is allowed.
10. 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

his furnishing a personal bond in the sum of Rupees One Lakh with one solvent surety for a sum of Rupees One Lakh to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. The Applicant shall fully cooperate with the investigation and 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 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