

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1220 of 2020**

- Devichand Chandravanshi S/o Bhekham Chandravanshi, aged about 33 years, R/o House No. 71, Village – Daukabandha, Kawardha, Tahsil Kawardha, District – Kabirdham, (Chhattisgarh).

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate, Kawardha, District – Kabirdham, Chhattisgarh.

---- Respondent

For Applicant : Shri Dharmesh Shrivastava, Advocate.

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

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****09/11/2020**

Heard through video conferencing.

1. The applicant has preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 392/2020 registered at Police Station Kawardha, District – Kabirdham, (C.G.) for the offence punishable under Sections 376(2)(n), 450, 315, 323 & 506 of the Indian Penal Code.
2. In the present case, prosecutrix is a married lady aged about 30 years. Applicant herein, is also a married person. As per the case of the prosecution, on 4.8.2020, prosecutrix lodged a report against present applicant wherein it has been alleged that initially in the month of October, 2019, when she was alone in her house, at that time

present applicant forcefully entered in her house and committed sexual intercourse with her. It is further alleged that at that time applicant captured the obscene photographs and video clips of the prosecutrix and threatened her to life if she discloses the alleged incident to anyone. Thereafter, applicant continuously committed sexual intercourse with prosecutrix due to which she got pregnant. It is further alleged that applicant gave her some medicines and aborted the child. On the basis of the report, offence has been registered.

3. Learned Counsel appearing for the applicant submits that applicant is innocent and has been falsely implicated in the present case. He further submits that in the present case both applicant and prosecutrix are married persons. If the entire case is taken as it is, prosecutrix seems to be a consenting party. Since, prosecutrix is a major lady and a consenting party, therefore, the applicant has committed the alleged act is not acceptable. *Prima facie*, no offence can be made out against applicant. It is further submitted that F.I.R. has been lodged after a gap of one year of the alleged act. Thus, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the anticipatory bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available.
6. 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 F.I.R. has been lodged after a gap of one year of the alleged act and both applicant and prosecutrix are major and married persons, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

7. Accordingly, the anticipatory bail application is allowed.
8. 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 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