

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1287 of 2020**

- Sudesh Kumar Nand S/o Sunatan Nand Aged About 33 Years Occupation Student , R/o Behind Ravishankar Shukl University, Banjari Nagar, Raipur, Police Station D.D. Nagar, District Raipur, Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant	: Shri Goutam Khetrapal and Shri Kishore Narayan, Advocates.
For Respondent/State	: Shri Ghanshyam Patel, G.A.
For Objector	: Shri Roop Naik, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****06/11/2020**

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. 401/2020 registered at Police Station Basna, District – Mahasamund, (C.G.) for the offence punishable under Sections 323, 376, 506 of the Indian Penal Code.
2. As per the case of the prosecution, prosecutrix is a lady aged about 32 years. On 12.8.2020 she lodged a report at police station Basna alleging that for the last 10 years, applicant has been committing sexual intercourse with her on pretext of marriage. Thereafter,

applicant denied to marry with the prosecutrix and he developed relationship with some other lady. On the basis of the said, 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 prosecutrix is a 32 years old lady and prior to 10 years of the alleged incident, prosecutrix was a major lady. There was love relationship between prosecutrix and the applicant and they were in live-in-relationship and also lived as wife and husband. Since, prosecutrix is a major lady and consenting party, *prima facie*, no case under Section 376 of I.P.C. is made out against applicant. Thus, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State and Objector oppose the anticipatory bail application. Counsel for Objector further submits that prosecutrix and present applicant both are distant relatives. Firstly, in the year 2010 when prosecutrix visited the house of the present applicant, at that time applicant forcefully committed sexual intercourse with her on pretext of marriage and continuously exploited her. Therefore, anticipatory bail should not be granted to the applicant.
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

prosecutrix is a major lady aged about 32 years and F.I.R. has been lodged after a gap of 10 years of the alleged incident, 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