

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 670 of 2020**

- Kuldeep Singh S/o Shri Navratna Singh, Aged About 26 Years R/o Ward No.5, Subhash Block, Korba, Tahsil And District - Korba Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh, Through - District Magistrate, Korba / Station House Officer, Police Station - A.J.K., Korba, District - Korba Chhattisgarh

---- Respondent

For Appellant	:	Shri Dharmesh Shrivastava, Advocate
For State	:	Smt. Hamida Siddiqui, Dy.A.G.
For Objector	:	Shri Vikas Pandey, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****03/12/2020**

This appeal arises out of order dated 03/09/2020 passed by the learned Sessions Judge by which, appellant's application for grant of anticipatory bail has been rejected.

2. The allegations against the present appellant is that on false pretext of marriage, the appellant entered into relation with the prosecutrix aged about 31 years and for about one year, the appellant sexually exploited the prosecutrix and finally, he did not marry the prosecutrix and started maintaining distance and was not meeting her. In this manner, the appellant is alleged to have committed offence under Section 376 of IPC and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

3. Learned counsel for the appellant would argue that in the present case, the contents of FIR, if read as it is, would clearly show that the prosecutrix is a major and matured lady and she had entered into an affair with the appellant. He would submit that even according to the prosecutrix, she was seeking assurance of marriage from the appellant and it is not a case that the appellant made false promise of marriage

and then committed sexual intercourse. He submits that present is a counter blast because when the appellant started maintaining distance from the prosecutrix after coming to know that the prosecutrix was involved with other male persons also, the prosecutrix and her brother-in-law started threatening the appellant and also started demanding Rs.5 lakhs, otherwise, the appellant would be involved in criminal case due to which, the appellant made complaint before the Superintendent of Police on 22/06/2020. It was only thereafter, the prosecutrix lodged report on 17/08/2020 against the appellant. He submits that the criminal case has been lodged only to create pressure on the appellant so that the appellant does not discontinue his relation with the prosecutrix.

4. On the other hand, learned State counsel and the objector oppose prayer for bail by submitting that though the prosecutrix is a major lady and she and the appellant were maintaining relationship for about one year prior to the date of lodging of FIR, genesis of such relation was that the appellant, time and again, used to assure the prosecutrix that he will marry her though he was maintaining distance from the prosecutrix and merely because there are allegations of demand of money, it cannot be said that the appellant did not commit any such offence because consent was not free in nature. Learned State counsel would further submit that in the matter of commission of offence under the Act of 1989, ordinarily, anticipatory bail is not granted and present is not a case of extra ordinary nature, therefore, the appeal may not be allowed.

5. On *prima facie* consideration of the submission of learned counsel for the parties and material disclosed from the case diary, prosecutrix herself has stated that for one year, prior to the date of lodging of FIR, she and the appellant were maintaining sexual relations, the prosecutrix is a major lady more than 30 years of age. It is not a case that within a short period, the prosecutrix started making allegations. The appellant has come out with a case that complaint dated 22/06/2020 made by the appellant to the Superintendent of Police stated that though he was in relation with the prosecutrix but when he came to know that the prosecutrix has relation with other persons also, he started maintaining distance from her. Then the prosecutrix started demanding Rs.5 lakhs from him. The FIR lodged by the prosecutrix against the appellant is subsequent point of time as it was lodged on 17/08/2020. Therefore, present is a fit case for grant of anticipatory bail to the appellant in view of the decision of the Supreme Court in the recent judicial pronouncement in the case of **Prathvi Raj Chauhan v. Union of India and ors., (2020) 4 SCC 727.**

6. Accordingly, the appeal is allowed. It is directed that in the event of arrest, the

applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with two local sureties for the like sum to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions:-

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that 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 facts to the Court or to any Police Officer.
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge