

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.1397 of 2020**Order Reserved on : 9.11.2020Order Passed on : 2.12.2020

Dr. Saheb Lal Adile, S/o Late Mr. Jhitku Ram Adile, aged about 65 years, R/o C/113, Guru Ghasidas Nagar, Near Vijeta Apartments, Raipur, Chhattisgarh

---- Applicant**versus**

The State of Chhattisgarh through the Station House Officer, P.S. Mahila Police Thana, District Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Kishore Bhaduri and Shri Harshwardhan Parganiha, Advocates
For Respondent/State	:	Shri Alok Nigam, Government Advocate
For Objector/prosecutrix	:	Shri C. Jayant K. Rao, Advocate

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.50 of 2020 registered with Mahila Police Station, Raipur for offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that the prosecutrix is a bachelor lady aged about 33 years. The Applicant is a retired government servant aged about 65 years. The alleged incident took place on 6.1.2018, First Information Report against which was lodged by the prosecutrix on 24.8.2020 stating that in the month of December, 2017 she had participated in an examination at Medical College, Raigarh

(Chhattisgarh). At that time, the Applicant was posted in the said college as Dean. He assured her to provide a government job in the said college. Therefore, she shared her mobile number with him. Thereafter, she had talked with him on several occasions regarding her job. On 6.1.2018, she had come to Raipur for some personal work. There, she gave a telephonic call to the Applicant. He asked her to come his house for a discussion regarding her job. Allegedly, he picked her up in his scooty at Kutchery Chowk, Raipur for taking her to his house situated in Ashoka Ratna Apartment, Shankar Nagar, Raipur. He took her to his house saying that his family members were also residing there with him and at that time itself they were present there. She, believing him, went along with him to his house, but, there, she did not find anyone. She got scared and told the Applicant that she is going out from his house on which he used filthy language against her and threatened her using his power and position of his department. He also threatened her that she will never get any government job. Thereafter, allegedly, he took her forcibly in his bedroom and there he committed forcible sexual intercourse with her. Thereafter, he dropped her back at the Kutchery Chowk, Raipur. On the basis of her report, the FIR is registered against him by the police.

3. Learned Counsel appearing for the Applicant submitted that the Applicant is innocent. He has falsely been implicated in the case. The fact as narrated by the prosecutrix appears to be a concoction with an ulterior motive to implicate the Applicant and get him removed from his post of Director, Medical Education (DME) tenure of which was extended on 30.3.2020. It was further submitted that there is an

inordinate delay of more than 2½ years in lodging the FIR by the prosecutrix and the said delay is not duly explained by her. It was further submitted that earlier also on 2.1.2018 she had lodged an FIR against one Azaz Khan for same kind of offence. In that case, the alleged incident had taken place on 21.7.2017 and she had lodged the FIR on 2.1.2018, i.e., after about 6 months of the incident. In the instant case, she lodged the FIR against the Applicant after more than 2½ years of the alleged incident. All the family members of the Applicant reside with him, therefore, her allegation seems to be suspicious. It appears that she is in the habit of lodging such types of false and fabricated cases. It was further submitted that the Applicant is aged about 65 years and he has retired from the post of Director, Medical Education. He is suffering from various diseases. His custodial interrogation is also not required. Hence, it was prayed that the Applicant may be admitted to benefit of anticipatory bail.

4. Learned Government Advocate appearing for the Respondent/State and Learned Counsel appearing for the Objector/prosecutrix jointly opposed the bail application. It was submitted by them that looking to the commanding position of the Applicant, the FIR was lodged belatedly and, therefore, the explanation offered for the delay is proper. It was also submitted by Learned Counsel appearing for the Objector/prosecutrix that after the incident the Applicant was threatening the prosecutrix through unknown persons against which also she has lodged a report. Therefore, if the Applicant is granted anticipatory bail, he will misuse the liberty and will threaten the prosecutrix. Hence, it was jointly prayed that the application for grant of anticipatory bail may be rejected.

5. I have heard Learned Counsel appearing for the parties. I have also minutely perused the contents of First Information Report, the documents submitted by the Applicant as also by the Objector/prosecutrix along with their bail application and objection, respectively and the other material available.
6. Having heard Learned Counsel appearing for the parties, having perused all the documents placed before me, having considered all the facts and circumstances of the case, particularly, the facts that the Applicant is a retired government servant aged about 65 years and the present FIR was lodged against him after more than 2½ years of the alleged incident, earlier also the prosecutrix had levelled same kind of allegation against Azaz Khan and in that case she had lodged FIR after about 6 months of the alleged incident and also having considered that custodial interrogation of the Applicant is not required, without further commenting on other merits of the case, I am inclined to grant him anticipatory bail.
7. Accordingly, the application for grant of anticipatory bail 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 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