

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 727 of 2020**

- Ramanand Nishad, S/o Shri Bhuvneshwar Nishad, Aged 31 Years
R/o Village - Pasoud, Police Station - Fingeshwar, Tehsil - Rajim,
District - Gariyaband, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh, Through - District Magistrate, District -
Gariyaband, Chhattisgarh.

---- Respondent

For Appellant
For Respondent/State
For Complainant

Mr. Rajesh Kumar Kesharwani, Advocate
Mr. VR Tiwari, Additional Advocate General
Mr. Devershi Thakur, Advocate

SB: Hon'ble Mr. Justice Prashant Kumar Mishra**Order On Board****16/12/2020**

1. Heard.
2. The appellant has preferred this appeal for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.109/2020 registered at Police Station Amanaka, District Raipur (CG) for the offence punishable under Sections 376 & 506 of IPC and Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "the Act, 1989").
3. The prosecutrix had friendship with the appellant for about 5-6

years prior to her marriage with one Chamanlal Dhruv solemnized on 4.5.2020. On threat that their friendship would be disclosed to her newly married husband, the appellant was causing mental harassment to the prosecutrix and in the said process, he called the prosecutrix on 11.6.2020 on the pretext of having some conversation and took her to a place near AIIMS, Raipur, where they stayed overnight and the appellant committed forcible sexual intercourse. Thereafter, the appellant again tried to mentally harass her on 17.6.2020, whereupon, the prosecutrix divulged the incident to her husband and the FIR was lodged on the next day i.e. on 18.6.2020.

4. It is argued that the prosecutrix is an adult and a matured lady, aged about 26 years, therefore, taking the entire allegation as it is, it is a case of consent and the offence under Section 376 of IPC is not made out. It is also argued that the prosecutrix was demanding monetary favour, which was refused by the appellant, therefore, the present false report has been lodged.
5. Learned counsel for the State as also learned counsel for the Objector would oppose the bail application by referring to the provisions contained under Section 18 of the Act, 1989. According to the learned counsel, *prima facie* case is made out against the appellant, therefore, he is not entitled to be released on anticipatory bail.
6. The FIR lodged on 18.6.2020 clearly speaks about sexual exploitation on threat of disclosing their previous affair to the

husband of the prosecutrix, therefore, it is difficult to conclude at this stage as to whether the sexual relation which occurred on 11.6.2020 was the result of free consent or a consent extracted on threat of ruining her marital life.

7. Section 18 of the Act, 1989 creates a bar for grant of anticipatory bail when an offence under the Act is registered against the accused and *prima facie* there are allegations constituting such offence.
8. Considering the nature of allegations and bar under Section 18 of the Act, 1989, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the appellant.
9. The appeal is dismissed.

SD/-

(Prashant Kumar Mishra)

Judge