

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1704 of 2019

- Vivek Mahant S/o Vedprakash Mahant Aged About 26 Years
Occupation - Student, R/o Gandhinagar, Police Station Gandhinagar,
Tahsil Ambikapur, District Surguja Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Mahila Thana -
Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant	: Mr. Hemant Gupta, Advocate.
For Respondent/State	: Mr. Ajay Kumrani, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

14/01/2020

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with crime no. 42/2019, registered at Police Station Mahila Thana, Distt. Ambikapur (C.G.) for the offence punishable under Sections 376 (2)(a) of the IPC.
2. In this case, at the relevant time, age of the prosecutrix was about 20 years. As per prosecution story, on 31.08.2019, she made a written complaint in concerned police station alleging therein that on the pretext of marriage from long back, the applicant committed sexual intercourse with her on various occasions at various places as well as in his home. On the basis of said complaint, offence has been registered.
3. Learned counsel appearing on behalf of the applicant submits that

the applicant is innocent and has been falsely implicated in the present case. Virtually there was a love relationship between both of them due to which, she herself made relationship on her own consent. The counsel further submits that if the entire case taken as it is, it seems that it is a matter of consent. Since, the prosecutrix was a major lady, therefore, prima facie no case under Section 376 of the IPC can be made out against the applicant. The counsel finally submits that at present, the applicant is ready to marry with the prosecutrix but she is not agreed. The applicant is a reputed person of his society, he is a permanent resident of above mentioned address and there is no chance of his absconding, therefore, he may be granted benefit of anticipatory bail.

4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that it is a matter of consent. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:-
 - I. That the accused/applicant shall made himself available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/applicant 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/her from disclosing such facts to the Court or to any police officer;

- III. The accused/applicant shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. 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.

Sd/-

(Arvind Singh Chandel)
Judge