

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1893 of 2019

Rupkeshwar S/o Shyamlal, aged about 28 years, R/o Dumarpani, Police Station And Tahsil- Bagicha, District- Jashpur, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh through The Police Station- Bagicha, District- Jashpur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rishikant Mahobia, Advocate.
For Respondent/State	: Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

13/02/2020

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. 129/2019, registered at Police Station: Bagicha, District-Jashpur (C.G.) for the offence punishable under Section 376 (2) (N) of IPC and Section 3 (2) (V) of SC & ST Act, 1989.
2. In this case prosecutrix is a married lady and at the time of lodging of F.I.R, the age of the prosecutrix was about 27 years. As per the prosecution story, on 28.09.2019, the prosecutrix made a report stating therein that on the pretext of marriage from 2012 the present Applicant continuously committed sexual intercourse with her. It is further alleged that when the prosecutrix got married in the year 2014 thereafter also the present Applicant committed sexual intercourse with the prosecutrix on the pretext of marriage and when the prosecutrix asked to marry her he refused. On the basis of said background, offence has been registered.
3. Learned counsel appearing on behalf of the applicant submits that the applicant is falsely implicated in the present case. He submits that if the entire case of the prosecution is taken as it is, it seems that prosecutrix

was a consenting party of the alleged act. He also submits that according to prosecutrix she got married on 2014 and thereafter the Applicant committed sexual intercourse with the prosecutrix on the pretext of marriage, therefore the allegations leveled against the present Applicant is not acceptable. He further submits that since the prosecutrix was a consenting party of the alleged act so Prima Facie no case under Section 376 of IPC can be made out and if no case under Section 376 is made out therefore, offence under Section 3 (2) (N) of SC & ST can also not be made out therefore, he prays for grant of anticipatory bail to the Applicant.

4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for the parties.
6. Considering the facts and circumstances of the case, arguments advanced by counsel for the parties and particularly considering that prosecutrix was a consenting party and also a major lady, 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. 25,000/- 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