

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1896 of 2019

Nirmal Ahuja S/o Laxman Das Ahuja, aged about 32 years R/o Mahasati Mandir Ward Bhatapara, District- Baloda Bazar- Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Police Station- Bhatapara, District- Baloda Bazar- Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sanjay Agrawal, 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. 204/2019, registered at Police Station: Bhatapara, District: Baloda Bazar-Bhatapara (C.G.) for the offence punishable under Section 376 (D) and 506 of IPC and Section 4 & 6 of POCSO Act.
2. In this case the age of the prosecutrix is about 17 years. As per the prosecution story, on 27.05.2019, the prosecutrix made a report stating therein that the prosecutrix was studying in Hyderabad and on 15.03.2019 she came to her uncle and aunt's house. On the night of 15.04.2019 when the present Applicant along with co-accused Laxmikant Tandon who is the uncle of the prosecutrix was consuming alcohol, the prosecutrix was sent there by her aunt and thereafter co-accused insisted to take alcohol. When the prosecutrix was repeatedly insisted, she had taken half glass of cold drink and became unconscious and then the present Applicant and co-accused committed sexual intercourse with the prosecutrix. 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 due to some dispute with the father of the prosecutrix and on being given pressure by father of

the prosecutrix, false and fabricated report have been lodged by her. He further submits that charge-sheet had already been filed and the prosecutrix had already been examined before the Trial Court and in her court statement prosecutrix had not supported the case of the prosecution and turned hostile. According to her court statement she admitted the fact there was no any incident happened with her and her father had told to lodge the F.I.R 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 had already been examined before the Trial Court and she had not supported the case of the prosecution and turned hostile, 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