

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1856 of 2019

- Smt. Amita Shambharkar W/o Shri Pankaj Shambharkar Aged About 34 Years D/o Shri Dayaram Mendhe, R/o Near Buddh Mandir, Chhota Ashok Nagar, Behind Dal Mill, Gudhiyari Tahsil And District - Raipur Chhattisgarh.

---- Applicant

Versus

- The State Of Chhattisgarh Through The Police Station New Rajendra Nagar, Civil And Revenue District Raipur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Punit Ruparel, Advocate.
For Respondent/State	: Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/01/2020

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as she is apprehending her arrest in connection with crime no. 356/2019, registered at Police Station New Rajendra Nagar, Distt. Raipur, Chhattisgarh for the offence punishable under Section 384/34 of the IPC.
2. As per prosecution story, on 15.07.2019, a written complaint has been filed by complainant Dr. Arvind Jain in concerned police station alleging therein that in the year 2015, the applicant had visited in his clinic for dental treatment and till 2017, she had visited in his clinic so many times but not followed his instructions and stopped her treatment. Thereafter, she made complaint against the complainant in consumer forum for done her treatment negligently by the

complainant. Later on, the complainant called the applicant for completion of her treatment and also assured her that he will bear his medical expense. Thereafter, the applicant and her sister threatened the complainant and illegally demanded Rs. 30,00,000/-. On the basis of said background, 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. He further submits that virtually at the time of treatment, the complainant had committed rape with the applicant and the applicant has lodged a complaint against the complainant in this regard. The complainant had granted stay by this Court vide order dated 19.12.2019 passed in CRMP No. 2350/2019. Thereafter, to save himself, he lodged a false and fabricated report against the applicant. The counsel further submits that no case under Section 384 of the IPC can be made out against the applicant. The counsel submits that if all the contentions of the complainant taken as it is then only offence under Section 385 of the IPC can be made out against the applicant which is a bailable offence. He finally submits that the applicant is a lady and she is a reputed person of her society, she is a permanent resident of above mentioned address and there is no chance of her absconding, therefore, she may be granted benefit 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.
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 firstly the applicant has lodged a complaint with the averment of rape against the complainant and thereafter the complainant lodged a complaint against the applicant. Without further commenting on

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 her and she shall abide by all the following terms and conditions:-
 - I. That the accused/applicant shall made herself 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 her by the said Court till disposal of the trial.

Sd/-

(Arvind Singh Chandel)
Judge