

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1871 of 2019**

- Khushant Mandal, S/o Lt. Shri Babulal Mandal, aged about 24 years, R/o Village Kaundkera, P.S. Rajim, District Gariaband, (C.G.).

---- Applicant**Versus**

- State of Chhattisgarh Through Police Station Mahila Police Station, Rajim, District Gariaband, Chhattisgarh.

---- Respondent

For Applicant	: Shri Pragalbha Sharma, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**06/01/2020**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending his arrest in connection with Crime No. 216/2019 registered at Police Station Rajim, District – Gariaband, (C.G.) for the offence punishable under Sections 376(1), 450, 457, 506 of I.P.C.
2. As per the prosecution story, prosecutrix is a major lady having three children. On 20.10.2019 prosecutrix made a report alleging therein that on 25.08.2019 she was alone in her house, when she went for bathroom and when she got out from bathroom, the applicant, who was already present in the house, forcibly committed sexual intercourse with her and threatened her that if she will disclose the incident to anyone, then he will kill her children. Thus, she did not tell anyone about the incident. It is further alleged that on the intervening night of 22.09.2019 also, when she was sleeping with her children and other family members, present applicant entered in her house. At that time husband of the prosecutrix was also sleeping in the house who

caught the applicant. On the basis of the above background, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to some dispute. He further submits that, *prima facie*, no case can be made out against the applicant because prosecutrix is a major lady and it appears that she is a consenting party in the alleged act. When husband of the prosecutrix saw the applicant and prosecutrix together, then report has been lodged. It is further submitted that incidents occurred on 25.08.2019 and 22.09.2019 and F.I.R. was lodged on 20.10.2019. Also, the story narrated by the prosecutrix seems to be concocted. Looking to the above, applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.
6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and further considering the fact that prosecutrix is a major lady and F.I.R. has been lodged after a gap of about one and half months, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.
7. Accordingly, the bail application is allowed.
8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) He 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 from disclosing such fact to the Court.
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He 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