

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 2158 of 2019

Dev Prasad Sahu S/o Atmaram Sahu Aged About 18 Years R/o Village - Sonpuri, Police Station - Pathariya, District - Mungeli Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Pathariya, District Mungeli Chhattisgarh.

---- Respondent

For Applicant : Mr. G.L. Uike, Advocate appear through video conferencing.

For Respondent/State : Mr. V.R. Tiwari, Additional A.G. appear through video conferencing.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/06/2020

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. 401/2019, registered at Police Station Pathariya, Distt. Mungeli (C.G.) for the offence punishable under Section 363, 366 & 376 of the IPC, Section 4 & 6 of the POCSO Act and Section 3 (2) v of the SC/ST (Prevention of Atrocities) Act.
2. As per prosecution story, at the time of alleged incident, the prosecutrix was aged about 17 years 2 months. It has been alleged that on 01.11.2019, the applicant has kidnapped the prosecutrix from her parents' house and taken her with him, he kept her for about 5 days with him and committed sexual intercourse with her. On the basis of said background, after lodging complaint against the applicant, 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 there was a love relationship between the applicant and the prosecutrix and due to that she herself left her house on her own will. In the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., she has not supported the case of the prosecution and

categorically stated that nothing was done with her and she herself left her house on her own will. The Counsel further submits that with regard to the age of the prosecutrix, there is no conclusive evidence available on record and it seems that at the time of alleged incident, she was aged more than 18 years. The Counsel finally submits that since the prosecutrix was a consenting party and aged more than 18 years, therefore, no case can be made out against the applicant. Hence, it is prayed that he may be granted benefit of anticipatory bail.

4. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
5. I have heard learned Counsel for both 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 statement of the prosecutrix recorded under Section 164 of the Cr.P.C. 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 solvent 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 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