

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 233 of 2021**

- Jai Sarvesh Yadav S/o Shri Jhaduram Yadav, aged about 25 years, R/o Ghoghadih, Police Station Kota Tahsil Kota Bilaspur Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: Police Station Takhatpur, District Bilaspur, Chhattisgarh

-----Respondent

For Applicant	:	Mr. KPS Gandhi, Advocate
For Respondent- State	:	Mr. B.L. Sahu, Panel Lawyer

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****29/07/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.0/2021 registered at Police Station Takhatpur, District Bilaspur (C.G.) for the offence punishable under Section 376 of IPC.
2. As per the case of prosecution, on 01.09.2019, prosecutrix and the present applicant came under friendship for the first time. After exchanging their contact numbers, talking terms over mobile phone have been started between them. Present applicant over the phone call expressed his proposal that he likes her and if she rejects him then it will not be good for her. After sometime, applicant came to her house, took her to Bilaspur in the house of his friend and forcefully committed sexual intercourse with her and left her at village Ganiyari. She was then threatened of defamation by applicant. Thereafter, applicant used to harass her while on the

way to her college and also made physical relationship with her on several occasions. Later, marriage of prosecutrix was fixed with one Ramcharan Patel who is resident of village Vidhyadih. Upon getting the knowledge of marriage of prosecutrix, applicant sent several obscene messages to, would be in-laws of prosecutrix, resulting in breaking up of marriage of prosecutrix. Thereafter, written report was lodged on 23.01.2021, based on which, F.I.R. was registered on 03.02.2021 against present applicant.

3. Mr. KPS Gandhi, learned counsel for the applicant submit that the complainant/ prosecutrix and the present applicant were in love affair. Physical relationship between them were with the consent as both of them were major on the date of incident. No offence as alleged against the present applicant would be made out, hence, he may be enlarged on bail. Learned counsel, in support of his submissions, has relied upon the order passed in case of ***Diwaker Kumar Soni v. State of Chhattisgarh, (2018) 3 CGLJ SN 2.***
4. On the other hand, Mr. B.L. Sahu, learned State counsel, would submit that there is specific allegation of committing forceful intercourse with the prosecutrix and further sending obscene messages to the mobile phone of would be in-laws of prosecutrix, due to which, marriage of prosecutrix has broke up, hence he is not entitled for grant of anticipatory bail.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration the nature of allegation levelled, facts and circumstances of the case, further that there is specific allegation that after fixing of marriage of prosecutrix with one Ramcharan Patel, present applicant sent obscene messages on mobile phone of Ramcharan and his father, upon which marriage

of prosecutrix was broken, I do not find it a fit case to enlarge the applicant on anticipatory bail.

7. Accordingly, bail application is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan