

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 348 of 2021

- Brijesh Kumar Koshle S/o Shwarup Das Koshle, Aged About 30 Years, R/o Hemaband, Thana Dadhi, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh, Through Police Station Dadhi, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

---- Non-applicant

For Applicant – Shri Samir Singh, Advocate.

For Non-applicant/State – Shri Devesh Verma, Govt. Advocate.

Shri Abhishek Thakur, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-05-2021

1. Apprehending arrest in connection with Crime No.18/2021, registered at Police Station – Dadhi, District Bemetara, Chhattisgarh for offence punishable under Section 376 (2)(N), 294, 506 B, 323 of the IPC the applicant has preferred this application under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against him under Section 376(2) of the IPC for the reason that the age of the prosecutrix is 22 years who had willingly and consensually submitted for physical relation continuously for a period of one month to this applicant. The only reason for falsely implicating this applicant is this, that he has refused to marry her, therefore, this incident has been converted into a rape case, which is baseless and false. Hence, it is prayed that this applicant be granted anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix is consistent in her statement against this applicant made by her under Section 161 and 164 of the Cr.P.C., therefore,

looking to the direct evidence present, this applicant is not entitled for grant of anticipatory bail.

4. Learned counsel for the objector opposes the application and submits that it is a clear case in which the applicant obtained consent of the prosecutrix fraudulently by making false promise of marrying her. Further, the applicant being related to the prosecutrix and the witnesses, he may influence the witnesses and the investigation. Therefore, this application may be rejected.

5. In reply it is submitted by learned counsel for the applicant that the FIR is delayed about one month which is another point in favour of the applicant.

6. Heard learned counsel for the parties and perused the documents.

7. According to the prosecution case, the prosecutrix went to visit elder sister residing in Village Hemaband on 27-11-2020. The applicant met with the prosecutrix and he promised that he will marry her and keep her as his wife and thus got her submission for sexual relation which continued till 10-12-2020. The prosecutrix then insisted for marrying, on which the applicant refused and he also abused, threatened and assaulted the prosecutrix, on which the FIR has been lodged.

8. Considered on the submissions. At present there is statement of the prosecutrix that her consent was obtained on the basis of false promise of marriage made by the applicant, hence, looking to this evidence and other circumstances present, it is found that this is not a fit case for grant of anticipatory bail.

9. Accordingly, the anticipatory bail application filed by the applicant is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Vacation Judge