

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 890 of 2021

Lalaram Jayswal S/o Late Shri Budhram, Aged About 58 Years, R/o Village-Bijrakapa, Kala, Thana- Lalpur, Tahsil- Lormi, District- Mungeli, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station- Lalpur, District- Mungeli, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Sunil Sahu, Advocate.
For Respondent-State	: Mr. B.L. Sahu, PL.

Complainant is present in person through Video Conferencing from District Legal Services Authority, Mungeli.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

17/08/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.121/2021 registered at Police Station –Lalpur, District- Mungeli, (CG), for the offence punishable under Sections 363, 366, 376, 323, 294, 342/34 of the Indian Penal Code and Sections 4 and 6 of Protection of Children's From Sexual Offences Act, 2012, ('for short.' POCSO Act').
2. Case of the prosecution, in brief, is that on 29.06.2021 prosecutrix eloped alongwith Sunil Jaiswal and went to Raipur where they stayed for couple of days in rented accommodation, as per allegation, Sunil Jaiswal forcibly made physical relationship with her. On 03.07.2021, present applicant alongwith Indira Kumar Jaiswal (father of Sunil jaiswal), Shivkumar, Raju Jaiswal went to Raipur on four wheelers and brought back prosecutrix and Sunil Jaiswal at the residence of Sunil Jaiswal situated in village -Bijrakapa Kala. Applicant alongwith other persons have assaulted, abused prosecutrix in the name of her caste inside the house and ousted her. Prosecutrix again came to Raipur from where she was brought back to her parents house by her brother-in-law. Complaint was lodged on 08.07.2021 based upon which, FIR was registered

against applicant and 6 others.

3. Learned counsel for the applicant submits that allegation of kidnapping, abduction and establishing physical relationship forcibly with prosecutrix are only against Sunil Jaiswal with whom she was having love affair since the year 2018. Only allegation against present applicant is that he accompanied parents of Sunil Jaiswal to Raipur and brought back Sunil Jaiswal and prosecutrix to village -Bijrakapa Kala. Allegations of assaulting and abusing prosecutrix by her caste are false and frivolous. Allegation leveled against present applicant for keeping prosecutrix in house of Sunil Jaiswal, abusing and assaulting her would attract provisions of Sections 323, 342 and 294 of Cr.P.C only, which are bailable offences. From the contents of complaint itself, it is clear that prosecutrix was ousted from house of Sunil Jaiswal on same night when they were brought back from Raipur. Applicant has not abused prosecutrix by her caste and even if the allegation of prosecutrix that she was abused by her caste is taken as it is, the same is in the house and not in open place within public view. Applicant has not committed any offence as alleged against him. Offence under POCSO Act will also not be attracted. Hence, applicant may be released on anticipatory bail.
4. Learned counsel for the State opposes the submission made by learned counsel for applicant and submits that prosecutrix has made serious allegations against all 7 accused persons in written complaint as well as statement recorded under Sections 161 and 164 of Cr.P.C. Present applicant is maternal uncle of main accused Sunil Jaiswal, who had kidnapped, abducted and forcibly made physical relationship with prosecutrix. Since prosecutrix is abused by her caste, offence under the Scheduled Cast/Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also proposed to be added.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of case, nature of allegation, contents of complaint, statements recorded under Section 161 and 164 of

Cr.P.C which are read over by learned counsel for the State, role stated to be played by applicant, without commenting anything on merits of this case, I am inclined to grant anticipatory bail to applicant.

7. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with crime in question, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Arresting Officer. Applicant shall also abide by the following conditions :

- (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that 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 from disclosing such facts to the Court or to any police officer;
- (iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant shall appear before the trial Court on each and every date given to him by said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-