

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1065 of 2021

- Lochan Singh Thakur S/o Bhagwan Singh Thakur Aged About 56 Years R/o Village And Post Devkar, P.S. Saja, District- Bemetara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, P.S. Saraswati Nagar, District : Raipur, Chhattisgarh

---- Respondent

For Applicant	: Shri Suresh Kumar Verma, Advocate
For Respondent/State	: Shri Vaibhav Singh, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

06.09.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No. 133 of 2021 registered at Police Station Saraswati Nagar, Raipur, Chhattisgarh for commission of offenses punishable under Sections 376 and 506B of IPC.
2. Case of the prosecution, in brief, is that, prosecutrix lodged a written complain against present applicant stating therein that applicant since the year 2014, on the pretext of marriage had made physical relation with her on several occasions at different points of time at different places. Applicant has kept the complainant in residential accommodation situated behind Saraswati Nagar, Railway Station, Raipur. On 21.06.2021, when complainant was not present in her house, applicant opened lock with one of the keys in his possession and took over Rs.3 lakhs and jewellery kept in the house. Based on written report, FIR was registered against applicant for offenses under Sections 376 and 506 Part II of IPC.
3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri Suresh Kumar Verma, learned counsel for the applicant would submit that complainant is a married woman, aged about 46 years, having two children from her marriage. Prosecutrix on account of dispute with her husband, started living separately and filed application under Section 125 CrPC, which came to be dismissed on 30.04.2019 by Family Court, Bemetara and further in appeal preferred before Additional Sessions Judge, Bemetara, challenging order dated 16.01.2017 passed by the Jurisdictional Magistrate for the offence under Section of Domestic Violence and Protection of Woman Act, 2005 was allowed and grant of interim maintenance was set aside. He submits that even if there was instance of physical relationship with complainant as alleged, it is a consensual relation since 2014. Complainant herself is a married woman, there was no reason of giving assurance of marriage, unless she takes divorce from her earlier husband.

5. On the other hand, Shri Vaibhav Singh, learned counsel for the State opposing the submissions of learned counsel for the applicants, submits that in written complaint, serious allegations have been levelled against applicant, of making physical relationship with complainant since 2014 continuously, on the pretext of marriage. He further submits that there are further allegations that in absence of prosecutrix, applicant took amount of Rs.3 lakhs and jewellery from her house, hence applicant is not entitled to get benefit under Section 438 of CrPC.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against applicant, the fact that prosecutrix is a married lady, aged about 43 years, she was residing separately from her husband since 2014, and also considering the period of physical relationship between complainant and applicant since 2014

and complaint was lodged only in the year 2021, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer.

The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) That the 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;
- c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That the applicant shall appear before the trial Court on each and every date given to him/her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE