

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 1107 of 2021

Manvendra Kumar Markande S/o Shri Krishna Ram Markande, Aged About 32 Years, R/o Plot No. 18, A-Cross Street, Near Lane No. 13, Ashish Nagar, West Civic Center, Bhilai, Tahsil and District -Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Police Station -Sarkanda, Bilaspur, District Bilaspur, Chhattisgarh.

--- Respondent

For Applicant	: Mr. P.N. Bharat, Senior Advocate with Shri Akash Pandey, Advocate.
For State	: Mr. Shrikant Kaushik, PL.
For Objector/Complainant	: Mr. Rishikant Mohabiya, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

17/09/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.1012/2021 registered at Police Station – Sarkanda, District -Bilaspur, (CG), for the offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that complainant/prosecutrix is pursuing Public Service Commission coaching at Bilaspur. She came in contact with applicant. Thereafter, they started meeting with each other in relation to their studies and developed friendly relationship. Both of them are resident of Bhilai. On 30.01.2021, applicant came to rented accommodation of prosecutrix at Bilaspur and said to her that he likes her and wanted to marry her. Thereafter, on the pretext of marriage, he committed forceful sexual intercourse with her. But, after some time, he refused to marry her which made prosecutrix to lodge complaint against him before concerned Police Station on 19.08.21. Based upon complaint, instant crime is registered against applicant.
3. Learned Senior Counsel for the applicant submits that from the allegation in FIR itself it is clear that applicant and prosecutrix are known to each other since long time as both of them were preparing for PSC exam. Later on, applicant

passed PSC exam and got appointment. Whatsapp chat enclosed along-with bail application shows that it is prosecutrix herself who wanted to make physical relationship with applicant. Whatsapp chat does not reflect that applicant has proposed prosecutrix for sexual relationship at any point of time but it reflects otherwise. Prosecutrix is a qualified lady, aged about 32 years and well aware with pros and cons of indulging in physical relationship. Learned Senior Counsel pointed out some of whats app chat and stated that on account of threat given by prosecutrix, applicant has lodged complaint case before the Court of Jurisdictional Magistrate under Section 200 of Cr.P.C. which was registered vide order dated 28.07.21 and prosecutrix lodged complaint thereafter. As applicant is a government servant, he may be enlarged on anticipatory bail.

4. Learned State Counsel opposes the submissions made by learned counsel for applicant and submits that there is specific allegation against applicant of committing forceful intercourse with prosecutrix on the pretext of marriage. But subsequently, he turned down from his words. Nature of allegations in FIR and statement shows that applicant is involved in commission of alleged offence. Hence, he is not entitled for grant of anticipatory bail. He also pointed out the statement of prosecutrix recorded under Section 164 of Cr.P.C.
5. Learned counsel for the Objector/complainant submits that prosecutrix indulged in physical relationship with applicant only on the assurance of marriage. After registration of FIR against applicant, some unknown persons came to her house and given threat for withdrawing of FIR. He further submits that prosecutrix apprehends that if bail is granted to applicant, he may threaten her and may also commit some other incident with her. Hence, applicant may not be enlarged on bail.
6. Heard learned counsel for the parties and perused the case diary.
7. Considering the entire facts and circumstances of the case, nature of allegation levelled against applicant in FIR, age of prosecutrix to be 32 years, statement

of prosecutrix recorded under Section 164 of Cr.P.C and contents of FIR, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Arresting Officer. The 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/her 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 her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-