

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1177 of 2021

- Narendra Verma, S/o Late Manohar Verma, Aged About 30 Years, Caste Gabel, R/o Village Phguram, Police Chowki Phguram, Police Station Dabhara, District Janjgir Champa, Chhattisgarh (cause title not complete mentioned in impugned order)

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Dabhara, District Janjgir Champa, Chhattisgarh

---- Respondent

For Applicant
For Respondent

Mr. A. K. Yadav, Advocate
Ms. Anjali Singh, PL

Hon'ble Justice Shri Parth Prateem Sahu

Order On Board

01/12/2021

1. Applicant has preferred this first bail application under Section 438 of CrPC for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.201/2020, registered at Police Outpost Phaguram, Police Station Dabhara, District Janjgir-Champa (C.G.) for the offence punishable under Sections 376 & 450 of IPC and Section 6 of POCSO Act.
2. Case of prosecution is that prosecutrix lodged a written report on 06.05.2020 making allegation against applicant that he committed sexual intercourse with her on pretext of marriage since 2014 and thereafter refused to marry her. Based on the written report, aforementioned crime was registered against applicant.

3. Mr. A. K. Yadav, learned counsel for the applicant, would submit that absolutely false and baseless allegations have been levelled against applicant. Allegation of establishing physical relation since 2014 is *per se* wrong. Even if the allegation of prosecutrix is taken as it is, she was in relationship with applicant for about 7 years and report was lodged only in the month of May, 2020. On the date of lodging report, she was mature girl, aged about 21 years. He would further submit that when prosecutrix was produced before Magistrate for recording statement under Section 164 of CrPC, she has not levelled any allegation against applicant, but in subsequent statement, she has stated that applicant has committed sexual intercourse with her when she was minor. In view of the contradictory statements of prosecutrix before the Court, the allegation levelled against applicant appears to be suspicious, hence he may be enlarged on anticipatory bail. Learned counsel for the applicant has placed reliance on the various orders passed by this Court in MCRCA No.831/2021, MCRCA No.924/2021, MCRCA No.101/2018, MCRCA No.680/2021, MCRCA No.1019/2021 and CRA No.215/2021.
4. Ms. Anjali Singh, learned State counsel, would oppose the submission of learned counsel for the applicant and would submit that in the written report, there are specific allegations that applicant established physical relation with prosecutrix when she was minor, aged about 14 years only. The 164 of CrPC statement given by prosecutrix is under pressure of persons engaged by applicant. When Police submitted final closure report, statement of prosecutrix was again recorded on 04.02.2021, wherein she has narrated as to under what circumstances she gave statement. He also points out

that in the impugned order, learned court below has taken into consideration all the factual aspects and also statement of prosecutrix recorded on 04.02.2021, hence applicant is not entitled for benefit of Section 438 of CrPC.

5. Prosecutrix is present in person before this Court. She submits that applicant should not be enlarged on anticipatory bail.
6. I have heard learned counsel for the parties.
7. From the impugned order, it is apparent that in subsequent two statements recorded before the Court, one at the time of considering closure report and another recorded under Section 164 of CrPC, prosecutrix has levelled serious allegations against applicant. In the statement of prosecutrix recorded on 04.02.2021, she narrated the circumstances under which she gave her earlier statement under Section 164 of CrPC, there are allegations against the applicant of commission of alleged crime. The orders on which learned counsel for applicant placed reliance are on different facts.
8. Considering the facts and circumstances of the case, nature of allegation, age of prosecutrix to 14 years only on the date of incident, I do not find it a fit case to enlarge applicant on anticipatory bail.
9. Accordingly, the bail application is dismissed.

Sd/-
Parth Prateem Sahu
Judge