

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1558 of 2020**

- Krishnakant Mishra S/o late Shri Ramnaresh Mishra, aged about 63 years, R/o Gram Bashara Tarhar, P.O. Chathara Tarhar, Station Lalapur, District Prayagraj (U.P.)

---- Applicant**Versus**

- State of Chhattisgarh - Through : Station House Incharge, Police Station Katghora, District Korba (C.G.)

---- Respondent

For Applicant	:	Mr. Anshul Tiwari, Advocate.
For Respondent.	:	Ms. Ishwari Ghrtilahre, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****24/03/2021**

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicant who is apprehending his arrest in connection with Crime No.267/2020 registered at Police Station - Katghora, District Korba (C.G.) for commission of the offence punishable under Section 376 of Indian Penal Code.
2. The prosecution case, in brief, is that prosecutrix made a written complaint at police Station Katghora, *inter-alia* stating that the applicant, who was Head Constable in the Police Department and has retired before two years, has been committing sexual intercourse with her on the false pretext of marriage since 2003. At present, the applicant shifted to his home town in U.P. Based on this, offence has been registered against the present applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that after passing two years of his retirement, a false and malicious report of rape has been lodged against him just to harass and harm his reputation. He also submits that even if the entire prosecution story is taken as it is, then also according to the complaint, the last date of incident is 01.02.2019 and the report has been lodged on 12.10.2020 i.e. after delay of more than 1.5 years and no plausible explanation has been given by the prosecutrix. It is next submitted that the prosecutrix is major lady and it is a pure case of consent.
4. Counsel for the State however opposes the application for anticipatory bail. Learned State counsel submits that the applicant has been maintaining physical relationship with the prosecutrix for last fifteen years on the false pretext of marriage and after his retirement he shifted to U.P.
5. After hearing counsel for the parties and considering the facts and circumstances of the case, in particular the quality of evidence and the nature of allegation against the present applicant, without further commenting on merits, this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the applicant.
6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the concerned

arresting/investigating officer or the court concerned, as the case may be, with the following terms and conditions:

- (i) that the applicant shall make himself available for interrogation/medical examination before the concerned investigating officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Rajani Dubey)
Judge