

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1214 of 2021**

- Ashish @ Satish Singh Thakur S/o Shri Swarupa Nand Singh, Aged About 32 Years, R/o Chhirha Majgaon, Police Station Nawagarh, District Bemetara Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Acting Officer In-Charge, Khamardih, District Raipur Chhattisgarh

---- Respondent

For Applicant	: Shri KA Ansari, Senior Advocate with Shri Aman Ansari and Shri Vipin Singh, Advocates
For Respondent/State	: Shri BL Sahu, PL
For Objector	; Shri CR Sahu, Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

29.09.2021

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 Khamardih, District-Raipur, Chhattisgarh for commission of offenses punishable under Sections 376, 376(2)(N), 342, 506 and 34 of IPC.

2. Case of the prosecution, in brief, is that, on 05.08.2020 complainant/prosecutrix lodged a written report stating therein that she came in contact with applicant through Facebook in the month of June, 2020 and developed relationship. In the month of November, 2020, applicant met with prosecutrix and thereafter, returned to his village. They met personally on number of occasions. One day in the month of November, 2020, applicant came to Raipur, called prosecutrix on her mobile phone and asked her to meet him. On his request, she came to Pujari Park road from Tikrapara. There she found applicant along with

Mayank in a Car. They took her for wandering in Raipur City, and thereafter, to VIP State C-31, in rented accommodation, where Mayank is residing. Applicant took prosecutrix in a room and locked her. Thereafter, he committed forceful sexual intercourse with her. He made physical relationship four times on that night and when she wanted to return back to her home, he did not permit her to go. When prosecutrix stated that she will lodge complaint against applicant on account of his illegal act, he stated that he will perform marriage with her. Thereafter, whenever applicant visited Raipur, she was called by him and physical relationship was established on several occasions, which continued till 10.07.2021. Applicant made commitment with prosecutrix that he will perform marriage in Arya Samaj on 03.08.2021 but even on that date, he did not appear and not performed marriage with her. Then she submitted a written report in concerned Police Station, based upon which aforementioned crime is registered against applicant.

3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri KA Ansari, learned Senior Advocate submits that as per written complaint of prosecutrix, she and applicant developed friendship through Facebook, which was later on converted into love relationship. Even if applicant and complainant established physical relationship, it would be consensual relationship. He submits that love relationship of prosecutrix with applicant is apparent from her whatsapp chats, filed along with bail application and her handwritten letter at Page-17. Prosecutrix is working girl aged about 29 years. He contended that in view of contents of whatsapp

chats and letter written by prosecutrix herself, offences as alleged against applicant would not be made out, and he may be granted anticipatory bail.

5. On the other hand, Shri BL Sahu, learned counsel for the State and Shri CR Sahu, learned counsel for the complainant/prosecutrix opposing the submissions of learned counsel for the applicant submit that though as per allegation, prosecutrix came in contact with applicant through Facebook, there was admittedly, friendship between the two but the applicant in the month of November, 2020 committed forceful sexual intercourse with her, against her will. There are further allegations that applicant established further physical relationship with her under threat that he prepared video of their relationship and will make viral in social media, due to which prosecutrix could not lodge report. Thereafter, applicant assured that he will perform marriage with her.

6. Learned State counsel in support of his contention, read over FIR and statement of prosecutrix recorded under Section 164 of CrPC.

7. Learned counsel for complainant submitted that whatsapp chats filed along with bail application are fraudulently sent by applicant through mobile phone of complainant, without her knowledge, that shows his intention from inception. He further submits that when prosecutrix lodged a written report before State Women Commission, she was being threatened by sister and cousin of applicant. Applicant took signatures of complainant on four blank sheets in which, suicidal note by prosecutrix is prepared and threatened her of life, hence, he is not entitled for benefit under Section 438 of CrPC.

8. I have heard learned counsel for the parties.

9. As per allegations levelled against applicant in FIR and written complaint, applicant and prosecutrix came in contact through Facebook, upon which they entered into friendly relationship and thereafter, established physical relationship. Their physical relationship continued from November, 2020 till 10.07.2021. Prosecutrix is a major girl, aged about 29 years, as it appears from her deposition sheet recorded under Section 164 CrPC. She is a working lady.

10. Considering entire facts and circumstances of the case, nature of allegations levelled against applicant; material placed on record along with bail application and in case diary, age of prosecutrix/complainant, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

11. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the 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 him/her 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

padma