

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC (A) No.1219 of 2021**

- Rahul Kumar Sahu, S/o Premlal Sahu, aged about 24 years, R/o Village Bhilai, Police Station and Tahsil Arang, District Raipur (CG)

---- Applicant**Versus**

- State of Chhattisgarh, Through: Station House Officer, Police of Police Station Surajpur (wrongly mentioned as Jainagar in the certified copy of order), District Surajpur (CG)

---- Non-applicant

For Applicant	:	Mr. Anil Gulati, Advocate.
For Non-applicant	:	Mr. Vaibhav Singh, Panel Lawyer
For Objector	:	Mr. Santosh Das, Advocate on behalf of Mr. Sunil Sahu, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****29/9/2021**

1. This is first application under Section 438 of CrPC for grant of anticipatory bail to applicant as he apprehends his arrest in connection with Crime No.392/2021 registered at Police Station Surajpur, District Surajpur (CG) for commission of offence punishable under Section 376 (2) (N) of IPC.
2. Case of prosecution, in brief, is that a written report was lodged by complainant/prosecutrix on 28.8.2021 alleging therein that she and applicant being students of same class in Veterinary Polytechnic College, Surajpur were known to each other. On 7.8.2017 in the evening applicant came to her tenanted accommodation for the purpose of discussion, bolted the doors from inside and forcibly committed sexual intercourse with her. When prosecutrix objected, he said to her that since they belong to same community, he will marry her. Thereafter applicant established physical relations with prosecutrix many times. Applicant took prosecutrix to his home and introduced her to his parents and there she resided for about three days. Subsequently when applicant refused to marry her, incident was brought to notice of Community

Members whereupon a meeting was convened in which the Community members have directed applicant to perform marriage with prosecutrix. Applicant did not comply with decision of Community Members, therefore, prosecutrix again approached Community Members upon which Community Members directed that till marriage of prosecutrix, applicant will not perform marriage and if the prosecutrix wants to take action against applicant, she is free to take action. Based on written report, FIR is registered against applicant.

3. Mr. Anil Gulati, learned counsel for applicant would submit that applicant and prosecutrix being students of same class became friends and thereafter their friendship turned into love affair. Allegation levelled against applicant of committing forcible sexual intercourse with prosecutrix is false and baseless. Prosecutrix is an educated girl and physical relationship, if any, between applicant and prosecutrix was consensual. Hence, the offence as alleged against applicant will not be made out.
4. Mr. Vaibhav Singh, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that as per allegation, initially on 7.8.2017 applicant forcibly established physical relation with prosecutrix and thereafter their physical relationship continued till 25.2.2020. On applicant's refusal to marry prosecutrix, she made complaint before the elder members of Community and thereafter lodged report. Applicant has committed offence as alleged against him, hence he is not entitled to be released on anticipatory bail.
5. Mr. Santosh Das, learned counsel for Objector adopted the submissions made by learned State Counsel and submitted that applicant committed forcible sexual intercourse with prosecutrix and thereafter restrained her from disclosing the same to others or making complaint to the police on the ground that he will marry her.

6. I have heard learned counsel for the parties.
7. Taking into consideration nature of allegations levelled against applicant; period of relationship, without commenting anything on merits of case, I am inclined to enlarge applicant on anticipatory bail.
8. Accordingly, application filed under Section 438 of CrPC for grant of anticipatory bail is allowed. 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 Arresting Officer. Applicant shall also abide by following conditions :
 - (i) that he shall make himself available for interrogation before Investigating Officer as and when required;
 - (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him /her from disclosing such facts to the Court or to any police officer;
 - (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-