

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1333 of 2021

- Suraj Chouhan S/o Santosh Kumar Chouhan Aged About 35 Years R/o D - 40, Subhash Block Korba, Tahsil And District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Incharge, Chowki, Rampur, Police Station Kotwali, District Korba Chhattisgarh

---- Respondent

For Applicant : Shri Anil Tripathi, Advocate
For Respondent/State : Shri Vaibhav Singh, PL

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

09.12.2021

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 900 of 2021 registered at Police Station Chowki-Rampur, PS Kotwali, District Korba, Chhattisgarh for commission of offense punishable under Section 376 of the IPC.

2. Case of the prosecution, in brief, is that, prosecutrix lodged a written report on 17.09.2021 stating therein that applicant committed forceful sexual intercourse with her on 05.03.2020 on the pretext of marriage and thereafter, on several occasions, applicant established physical relationship with her till 21.07.2021 and thereafter, he refused to marry her. Based on the report, aforementioned crime is registered against applicant.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri Anil Tripathi, learned counsel for the applicant would submit that age of prosecutrix on the date of lodging FIR is 29 years. He has been falsely implicated in the case. Even if the entire allegations levelled are taken on its face value, then also, it is *prima facie* appearing that prosecutrix is a consenting party, hence, no offence would be made out against applicant. He also submits that prosecutrix is in habit of blackmailing, as earlier also she levelled allegations and demanded money from one Deepak Chouhan. From applicant, his sister and brother-in-law, prosecutrix demanded Rs.5 lakhs by threatening them. It was reported to concerned Police Station on 06.09.2021 (Annexure A2). After getting knowledge of that report, she lodged false written report against applicant on 17.09.2021.

5. On the other hand, Shri Vaibhav Singh, learned State counsel opposing the submissions of learned counsel for the applicant, submits that there are specific allegations against applicant that initially he committed forceful sexual intercourse with her. Applicant also stated that he will not permit prosecutrix to marry some other person. In statement recorded under Section 164 of the CrPC also, prosecutrix stated the fact that applicant is having relationship with her and not permitting her to marry any other person. Hence, applicant is not entitled for benefit under Section 438 of CrPC. However, on putting specific query with regard to material collected by the Police during the course of investigation, he submits that Mobile chat and photographs of complainant have been seized.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations, age of prosecutrix to be 29 years, further that applicant has lodged report to concerned Police Station on 06.09.2021 against prosecutrix alleging demand of Rs.5 lakhs, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, bail 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 Investigating Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself 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 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 by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE