

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C (A). No. 1243 of 2021

Raja Shikari S/o Bhaskar Shikari, Aged About 21 Years, R/o Village Chorhadevri, Police Station Ratanpur, Tahsil and District Bilaspur Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Police Station Kota, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant : Mr. UKS Chandel, Advocate.

For State : Mr. Roshan Dubey, PL.

Hon'ble Shri Parth Prateem Sahu, J
Order on Board

05/10/2021

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.594/2021 registered at Police Station –Kota, District Bilaspur, (CG), for the offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that prosecutrix/complainant got married with Ajay Kumar Maliya in the year 2012, but since last 6 years he left the prosecutrix and residing separately. Prosecutrix was residing with her maternal grant-mother. On 28.06.21, applicant (brother-in-law of prosecutrix) came to house of prosecutrix and stayed there in night. In night, he entered into room of prosecutrix, committed forceful sexual intercourse with her and thereafter, ran away. Incident was immediately reported to maternal grandmother and thereafter to father-in-law. Father-in-law has stated that he will resolve the dispute in community meeting but he did not appear in meeting. Thereafter, report was lodged to concern police station, based upon which aforementioned crime is registered against applicant.
3. Learned counsel for applicant submits that on 05.04.21, sister of applicant was found missing from her residence, she was searched and when she was not found, report was lodged to the concerned police station by Bhaskar Shikari (father of applicant). Based upon which, initially offence under Section 363 of

IPC was registered against unknown person. During the course of investigation, Pooja Shikari (sister of applicant) was found at Harayana. They were called by father of applicant and after narrating incident by Pooja Shikari which was happened with her, it was reported to concern Police Station, based upon which offence under Sections 363, 376, 366 of IPC, Section 4 & 6 of the Protection of Children from Sexual Offences Act 2012 and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against three accused persons including Shammi Shikari (brother of prosecutrix). After registration of crime and arrest of Shammi Shikari, family members of prosecutrix have given threat to applicants father for withdrawal of report or else they will implicate them in similar nature of crime. Aforementioned crime is registered against applicant on false report, only because of arrest of brother of prosecutrix. Applicant has not committed any offence as alleged against him, he has been falsely implicated in this case. Hence, he may be enlarged on anticipatory bail.

4. Learned State Counsel opposes the submissions made by learned counsel for applicant and submits that in FIR as well as statement recorded under Section 161 & 164 Cr.P.C specific allegation of commission of forceful sexual intercourse has been levelled against applicant by prosecutrix. Hence, he is not entitled for grant of anticipatory bail. On putting a specific query to learned State Counsel with regard any other evidence in this regard, he submits that except FIR and statement of prosecutrix no other evidence is available in case diary.
5. Heard learned counsel for the parties.
6. Alleged incident of sexual intercourse was committed on 28.06.21 thereafter on 06.07.21 again applicant went to house of prosecutrix and committed forceful sexual intercourse with her and also threatened her for dire consequence if she will make any complaint. FIR was lodged only on 26.08.21 after lapse of about more than one and half months from the date of alleged incident. Copy of FIR

bearing Crime No.154/21 at 07.04.21 lodged by Bhaskar Shikari and application to SHO, PS -Kota, Bilaspur making complaint of threat to implicate in false case at 13.07.21 is filed as Annexure A/2 & A/3 respectively.

7. Considering entire facts and circumstances of the case, nature of allegation, submissions made by learned counsel for the parties, report lodged by Bhaskar Shikari (father of applicant) on 13.07.21 of giving threat for withdrawal of complaint by family member of prosecutrix, delay in lodging of FIR, material available in case diary, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.
8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, he shall be released on bail by the officer arresting her on executing a personal bond in sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions :
 - (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
 - (iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
 Judge

Jamal/-