

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1274 of 2021

- Leela Yadav @ Nelu S/o Dhir Kunwar Yadav, Aged About 31 Years Occupation Part Time Sweeper, Caste Mahkul, R/o Village Laranga, P. S. And Tahsil Sanna, District Jashpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Station House Officer, Police Station Sanna, District Jashpur Chhattisgarh

---- Respondent

For Applicant	: Shri Awadh Tripathi, Advocate
For Respondent/State	: Shri Roshan Dubey, PL

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

15.12.2021

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. 67 of 2021 registered at Police Station-Sanna, District- Jashpur, Chhattisgarh for commission of offense punishable under Sections 366, 376(2)(n) and 34 of the IPC.

2. Case of the prosecution, in brief, is that, prosecutrix is a married lady. She got married on 08.04.2021 and started residing in her matrimonial house. On 11.07.2021, when prosecutrix came out of her house to answer nature call, applicant gagged her mouth with cloth, took her to little distance on road side and handed over her to co-accused Shyamlal, who was present there. Shyamlal took her to Betara forest, stayed there that night and committed forceful sexual intercourse with her on the pretext of marriage. Thereafter, they

went to Bagicha, from there to Ambikapur through public conveyance and stayed in Ambikapur in a lodge. Again on the next day, prosecutrix and Shyamlal went to Rajpur, and stayed in the house of his relative till 27.08.2021. Father-in-law of prosecutrix lodged missing report on 14.07.2021, based upon which Police during investigation, recovered prosecutrix on 27.08.2021 in the house of relatives of Shyamlal at Rajpur. FIR was registered on 30.08.2021.

3. Shri Awadh Tripathi, learned counsel for the applicant would submit that applicant has been falsely implicated in the crime. He submits that no allegation was levelled against applicant in FIR. Since 11.07.2021 till 27.08.2021, prosecutrix and Shyamlal visited several places, she was known to Shyamlal and resided with him till 27.08.2021 on assurance given by him that he will marry her, but subsequently, he refused to marry her. Prosecutrix was recovered on 27.08.2021 from Rajpur, but FIR was registered only on 30.08.2021. Police have not recorded statement of prosecutrix prior to 30.08.2021, because no allegation was levelled by her against any person. He pointed out that in the year 2013, cousin sister of prosecutrix got married with applicant, which was a love marriage. Family members of prosecutrix used to give threat to applicant, on which wife of applicant lodged FIR on 27.11.2013 and 25.12.2016. Typed copies are placed at Page-11A and 17A. Applicant himself lodged report against family members of prosecutrix on 15.12.2016 on which Police drawn proceedings under Section 155 of CrPC. It is for this reason, applicant has been falsely implicated in the crime. He submits that when prosecutrix visited several places in public conveyance with co-accused, stayed with him from 11.07.2021 till 27.08.2021, for more than one month, in the house of relative of Shyamlal, it cannot be said that prosecutrix was under

any threat, pressure or she was forcefully taken. Hence, applicant may be enlarged on anticipatory bail.

4. On the other hand, Shri Roshan Dubey, learned State counsel opposing the submissions of learned counsel for the applicant, submits that there is specific allegation of commission of offence under Section 366 of the IPC against applicant, as he gagged mouth of prosecutrix, dragged her to roadside and handed over to Shyamlal, hence he is not entitled for benefit under Section 438 of CrPC. In support of his contention, learned State counsel read over contents of FIR and statement of prosecutrix recorded under Section 161 and 164 of CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration facts and circumstances of the case, nature of allegations, contents of FIR, and statement of prosecutrix recorded under Section 161 and 164 CrPC, in which she stated that in night she stayed in forest with co-accused, went to Bagicha, Ambikapur, then Rajpur and stayed in house of other person, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

7. 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

padma