

(2018) 05 CHH CK 0124
In the Chhattisgarh High Court
Case No : MCRCA No. 333 Of 2018

Shubhanshu Tiwari

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 15-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 376
Code Of Criminal Procedure, 1973 — Section 161, 438

Citation : (2018) 05 CHH CK 0124

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Sharmila Singhai, Lav Sharma

Final Decision : Allowed

Judgement

P. Sam Koshy, J

1. The present is an application filed under Section 438 of Cr.P.C. seeking for anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 139/2018 registered at Police Station Sarkanda, District Bilaspur (C.G.) for the offence punishable under Section 376 of IPC.

2. The allegation against the present applicant is that, the present applicant is said to have had developed a physical relationship with the prosecutrix and in the course she is said to have conceived and later the present applicant is said to have also refused to marry the prosecutrix which led to the prosecutrix filing an F.I.R. against the present applicant.

3. The counsel for the applicant submits that, the entire dispute arose on account of dispute in the date of marriage which according to the applicant, he and his family members had requested for the marriage to be solemnized after the sister of the present applicant gets married. She further submits that, a plain reading of the statement of the prosecutrix recorded under Section 161 of Cr.P.C. would reveal that, there was no assurance of marriage given by the present applicant

for the alleged physical relationship maintained with the prosecutrix and on the contrary the prosecutrix had voluntarily visited as per the statement of the prosecutrix itself to different places along with the present applicant and is said to have had a physical relationship and thus prayed for granting the benefit of anticipatory bail to the applicant.

4. The State counsel however opposing the bail application submits that, the charge levelled against the present applicant being serious in nature so also the present applicant on the pretext of marriage is said to have exploited the prosecutrix and thus the present applicant did not deserve anticipatory bail at this juncture and prayed for rejection of the same.

5. Having heard the contentions put forth on either side and on perusal of the statement of the prosecutrix which reveal that she had voluntarily gone with the present applicant at different places and had a physical relationship and that there was no assurance of marriage given at any point of time for the relationship which the present applicant had with the prosecutrix for a considerable period of time, thus this Court is of the opinion that present is a fit case where the applicant is entitled for benefit of Anticipatory Bail.

6. Accordingly, the application under Section 438 of Cr.P.C. is allowed. It is directed that in the event of arrest of the present applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, with the following terms and conditions:

(i) that the applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;

(ii) 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;

(iii) that the applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and

(iv) 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.