

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 494 of 2015

L. Tulshi Rao @ Tulshidas S/o Shri L. Bhujang Rao Aged About 36 years R/o Panchshil Nagar (East) BMY Charoda Bhilai, Tahsil Patan, Police Station Bhilai-03, Civil And Revenue District Durg, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station- Bhilai-03, District- Durg, Chhattisgarh

---- Respondent

For Applicant	:	Shri Vinod Tekam, Advocate
For Respondent / State	:	Ms. Shubha Shrivastava, Panel Lawyer

Order On Board

13/07/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.201/15 registered at police station – Bhilai -03, Distt.- Durg, CG. for alleged commission of offence under Section 376 of IPC and Section 3 (1) (xii) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short “the Act of 1989”).

2. Learned counsel for the applicant argues that from the prosecutrix statement recorded under Section 164 CrPC before the Magistrate, it is apparent on the face of it, that she and the applicant were having love affair since June, 2014 and since then, they were maintaining physical relations. It is also submitted that the dispute, according the prosecutrix, arose only when in the month of March, proposal of marriage was turned down. Therefore, on the face of the statement of the prosecutrix, no prima facie case under Section 376 IPC is made out, particularly

when the prosecutrix herself claim to be more than 18 years of age.

3. On the other hand, learned State counsel submits that the applicant gave false pretext of marriage, entered into love affair with the prosecutrix and sexually exploited for more than one year and finally refused to marry her stating that she belongs to Scheduled Caste. Therefore, not only offence under Section 376 IPC but also prima facie case of offence under Section 3 (1) (xii) of the Act of 1989 is also made out.

4. Prima facie, from the prosecutrix statement under Section 164 CrPC, it is reflected that she and the applicant were having an affair almost one year prior to the date of lodging FIR on 08/05/15. During that period, as prosecutrix has stated, they had maintained physical relation. There is no material on record to show that the applicant was in a position to dominate the will of the prosecutrix and take advantage of his position to sexually exploit the prosecutrix. According to the prosecutrix, she and the applicant both were working in a shop and it is not a case where the applicant had the authority to control the service condition or that he was the master or superior officer of the prosecutrix.

In view of the above considerations, I am inclined to protect the applicant by granting him anticipatory bail.

5. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police 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 the case so as to dissuade him 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.

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
Judge

Deepti