

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 782 of 2015

Jotendra Kumar Sahu S/o Rambishal Sahu Aged About 46 Years R/o Village Mohandi, Police Station Bhilai-3, Tah. Dhamdha, District Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate, Durg, District Durg Chhattisgarh.

---- Respondent

Shri H.B.Agrawal, senior counsel along with Ms. Itu Rani Mukherjee, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Order On Board

24/08/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.299/15 registered at police station – Purani Bhilai, Distt. -Durg, CG for alleged commission of offence under Section 376, 506 of IPC.

2. Case of the prosecution is that the applicant developed relations with the prosecutrix, a widow, on false assurance of contacting marriage and providing shelter to her and her daughter. It is alleged that on such false assurance, the applicant sexually exploited the prosecutrix.

3. Learned senior counsel for the applicant submits that the complaint, read as it is, does not prima facie makes out a case of commission of offence under Section 376 IPC. The complainant is a major lady and a widow and according to her own, she was having relations with the applicant for the last 10 years and she was having physical relations with him. It is submitted that only when the marriage could not be materialized and village community meeting held on 07/06/15 and 28/06/15 did not result in favour of the prosecutrix, report has been lodged.

4. On the other hand, learned State counsel submits that sexual intercourse on the false pretext of marriage cannot be said to be a case of free consent. Therefore, ingredients of commission of offence under Section 376 IPC are made out.

5. Taking into consideration the totality of circumstances, particularly taking into consideration the statement of the prosecutrix herself that she was having relations with the applicant for 10 years and the report has been lodged against the applicant by the prosecutrix only after the marriage could not be materialized despite intervention of village community meeting, I am inclined to extend the benefit of anticipatory bail to the applicant.

6. 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 one local surety 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