

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 766 of 2015

Amit Dwivedi S/o Late Shri Arun Dwivedi Aged About 25 Years Occupation - Service, R/o Village - Mali Deepa, Boirdadar, Raigarh (Chhattisgarh) Permanently R/o Sector - 4, Bhilai, District - Durg (Chhattisgarh).

---- Applicant

Versus

State Of Chhattisgarh Through : The Police Station, Civil Lines, Bilaspur.

---- Respondent

Shri Ravindra Agrawal, counsel for the applicant/s.
Shri Vinod Tekam, Panel Lawyer for the State.
Shri Aman Kesharwani, counsel for the objector.

Order On Board

20/08/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.378/15 registered at police station – Civil Lines, Bilaspur, CG for alleged commission of offence under Section 376 of IPC.

2. Case of the prosecution is that the applicant, giving false promise of marriage, sexually exploited the complainant and thereby committed rape on her.

3. Learned counsel for the applicant submits that even according to the complainant, the applicant and the prosecutrix were having affair for the last five years. According to the complainant, the applicant and the complainant were living like husband and wife. The report has been lodged after about five years because of the dispute between the parties when the applicant refused to marry her suspecting her character.

4. On the other hand, learned State counsel and the objector oppose the bail application and submits that since 2011, the applicant entered into affair with the prosecutrix. She was taken to a temple and vermilion was also filled to

assure marriage in near future and on this false promise, he sexually exploited the prosecutrix. Therefore, it cannot be said to be a case of free consent and a prima facie case of rape is made out.

5. Taking into consideration the submission of learned counsel for the parties, particularly, taking into consideration the contents of the complaint submitted by the complainant in which, she herself has stated having an affair with the applicant since 2011 and also having physical relations for many years and that report has been lodged with the intervening refusal of marriage of the applicant with the prosecutrix, the application is allowed.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the arresting officer on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicant shall make himself available for interrogation by the police officer as and when required;

(ii) 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;

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
Judge