

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 816 of 2015

Shahzad Ali S/o Inayat Ali Aged About 38 Years R/o Village Kunkuri, (Main Road)
Police Station & Tah. Kunkuri, District Jashpur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Kunkuri,
District Jashpur Chhattisgarh.

---- Respondent

Shri Shakti Raj Sinha, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Order On Board

02/09/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.112/15 registered at police station – Kunkuri, District – Jashpur, CG for alleged commission of offence under Section 376 of IPC and Section 3 (ii) (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (In short “the Act of 1989”).

2. Case of the prosecution is that the applicant maintained relations with the prosecutrix and also sexually exploited her on the false pretext of marriage.

3. Learned counsel for the applicant submits that even according to the statement of the prosecutrix, she was having affair with the applicant since year 2000. In the FIR, she herself has stated that she had sexual intercourse with the applicant on number of occasions. Therefore, this is a case of consent. He submits that the applicant married another girl on 07/06/15 and FIR was lodged on 23/06/15.

4. On the other hand, learned State counsel submits that even though the prosecutrix states that she had love affair with the applicant and they had sexual intercourse but this was done on the false pretext of marriage. Therefore, it would not be a case of free consent.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix herself that she had a long standing love affair including sexual intercourse since 2000 and the prosecutrix is major and that report has been lodged only when marriage could not be materialized and the applicant contacted marriage with another girl on 07/06/15 and in view of the orders passed by this Court in **Satyaprakash Vs. State of C.G., 2004 (1) C.G.L.J. 162 & Abdul Abbas Vs. State of C.G., 2005 (2) C.G.L.J. 235**, bar under Section 18 of the Act of 1989 would not come in the way so as to deny anticipatory bail to the applicants, I am inclined to grant bail to the applicant.

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.25,000/- 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