

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 533 of 2015

Golu @ Ekeshwar Yadav S/o Shri Meghnath Yadav Aged About 26 years R/o Aarpa Irrigation Colony Sakri, Chowki Sakri, Police Station Chakarbhata, Civil And Revenue District Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station Chakarbhata Chowki- Sakri, Bilaspur, District Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri UKS Chandel, Advocate.
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

Order On Board

09/07/2015

Heard.

This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.150/2015, registered in Police Station- Chakarbhata, Chowki-Sakri, District- Bilaspur, for alleged commission of offence under Section 376 of IPC.

Case of the prosecution is that the applicant, giving false pretext of marriage, maintained physical relation with the prosecutrix for 3 years and it is alleged that during this period, he committed rape on the prosecutrix. Later on, the applicant did not agree to marry the prosecutrix but developed affair with another girl which led to many disputes. The prosecutrix was not accepted in the house of the applicant and thereafter, report has been lodged.

Learned counsel for the applicant submits that the FIR lodged by the prosecutrix itself shows that the applicant and the prosecutrix had longstanding love affair and during this period, they maintained physical relation. Therefore, it is not a case of rape. He submits that even if the allegations are taken on the face of it, it cannot be said to be a case of sexual intercourse without the consent of the prosecutrix, who is aged 24 years. Report has been lodged when all attempts failed

to bring about solemnization of marriage and when the family of both the complainant as well as the applicant refused to accept relationship.

On the other hand, learned counsel for the State submits that as the applicant was having sexual relation with the complainant on the false pretext of marriage and he later on refused to marry the prosecutrix, a prima facie case is made out.

Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration what has been stated by the prosecutrix in her report, particularly that she was having affair with the applicant for about 3 years and that she is stated to be aged 24 years and the report has been lodged after the family of complainant and applicant refused to accept relationship and refusal on the part of the applicant, I am inclined to allow the application.

The application is accordingly 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 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)

J U D G E