

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2544 of 2016

Mangal Sai S/o. Late Kulwan Kujur, aged about 27 years, occupation – service, R/o. Village Karai, Post Argouti, P.S. And Tahsil Lakhanpur District Surguja

---- Applicant

Versus

State of Chhattisgarh, Through:- Station House Officer, Police Station Gandhinagar, District Surguja (C.G.)

---- Respondent

For Applicant : Ms. Hamida Siddiqui, Advocate

For Respondent : Mr. D.K. Wankede, Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02 / 06 / 2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No. 80/2016, registered at Police Station– Gandhinagar, District – Surguja (C.G.) for the offence punishable under Sections 376 and 506 of Indian Penal Code.
2. Case of the prosecution, in brief, is that the applicant on false pretext of marriage maintained long standing relationship with the prosecutrix and sexually exploited thereby committed rape with the prosecutrix.

3. Counsel for the applicant submits that the prosecutrix is a major girl and according to the prosecution, she and the applicant were in live-in relationship since 2009. It is argued that the entire statement of the prosecutrix only makes out the case of consent and no offence under section 376 of IPC is made out and the offence under section 506 of IPC is a bailable offence in nature.
4. Per contra State counsel opposes the prayer for grant of bail and submits that the prosecutrix statement prima-facie shows that on false pretext of marriage the applicant sexually exploited the prosecutrix therefore, it is not a case of free-consent.
5. Having heard learned counsel for the parties and taking into consideration the fact that the statement of the prosecutrix read as it is reveals that the applicant and the prosecutrix were having long standing relationship since 2009. The prosecutrix has stated in her diary statement, that she was in relationship with the applicant as his wife since long. According to the prosecutrix statement, the applicant later on did not marry to the prosecutrix and when the prosecutrix came to know that the applicant intended to marry another girl and when she insisted for marriage with the applicant, the applicant refused to marry with her then the report was lodged in the police Station. Taking into consideration the submission that the statement of the prosecutrix and on the face of it is a case of consent, this Court is of the view that it is a fit case to release the applicants on bail.
6. Accordingly, the application is allowed.
7. Accused/applicant is directed to be released on bail on each of them executing a personal bond in the sum of Rs. 25,000/- with two local surety in the like sum to the satisfaction of the trial Court.

The applicant is to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Vacation Judge

Santosh