

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7059 of 2017

Dhan Singh Vishwakarma S/o Thakur Ram Vishwakarma Aged About 23 Years R/o Bagudega, Navapara, Chhattisgarh. P. S. Lailunga, District Raigarh, Chhattisgarh. (Note- District Has Wrongly Been Mentioned In The Cause Title Of The Rejection Order As Ramgarh In Place Of Raigarh)

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Sitapur, District Surguja, Chhattisgarh.

---- Respondent

Shri Jitendra Shrivastava, counsel for the applicant/s.
Ms. Sunita Jain, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/12/2017

Heard.

The applicant has been arrested in connection with Crime No.129/2017 registered at Police Station – Sitapur, Distt.-Surguja (CG) for alleged commission of offences under Section 366 and 376 (2) (ढ) of IPC.

2. Case of the prosecution is that the applicant on false pretext of marriage, committed rape on the prosecutrix.

3. Learned counsel for the applicant submits that even according to the diary statement of the prosecutrix, she and the applicant had an affair and the applicant came to stay with her for many days. Thereafter, she went along with the applicant and resided along with him and allegations of sexual intercourse is of the period during which they stayed together for months. Therefore, it is a case of consent and the prosecutrix being major, no offence under Section 376 IPC is made out. Therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and

submits that even though the prosecutrix has stated regarding affair between the parties, sexual intercourse was done on false pretext of marriage which was not solemnized later on. Therefore, *prima facie* case is made out.

5. Taking into consideration the submission of learned counsel for the parties and case diary statements of the prosecutrix, where she has stated regarding affair with the applicant and having stayed with him for months together and report being lodged when marriage was not solemnized, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge