

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4204 of 2017

- Vishal @ Veeru Verma S/o Dansay Verma, Aged About 21 Years, R/o Bazaar Chowk, Siltara, Police Station Dharsiva, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through the Station House Officer, Police Station Dharsiva, District Raipur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.P. Sahu, Advocate.

For Non-applicant/State – Shri Sumit Jhanwar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.167/2017 on 22-4-2017 by P.S. Dharsiva, District Raipur, C.G. for the offence under Section 376, 493 of the IPC. After investigation police had filed the charge sheet which is pending before the JMFC Raipur, C.G. as Criminal Case No.4097/2017. Learned counsel for the applicant would further submit that the prosecutrix and the applicant both are major. In the present matter the prosecutrix has lodged the FIR; police had recorded the statement under Section 161 of the Cr.P.C., her statement under 164 of the Cr.P.C. is also recorded; in all the above three there is no any material so as to connect him with the offence under Section 376, 493 of the IPC prima facie as there is no any ingredients of rape against will and consent of the prosecutrix. The applicant will not involve himself in any offence and will live peacefully in society. He may be granted bail as the trial may take some time.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that the applicant had made physical relation on false promise to marry, when the

prosecutrix became pregnant and the applicant denied for the marriage, she lodged the report. Hence, looking to the entire facts, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 3 months and 5 days till date, trial may take some time, the applicant is aged about 21 years, after perusal of the entire evidence collected in the charge sheet it appears that prima facie none of the ingredients as required under Section 375 of the IPC is attracted in the matter, there is no any fact as the intercourse committed against will of the prosecutrix and her consent. On due consideration, without commenting anything on its merit, I am inclined to grant bail to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of the like sum to the satisfaction of the committal Court/trial Court, as the case may be, for his appearance before the said Court as and when directed till trial.

6. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge