

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4317 of 2017

- Madhusudan Kishore Yadav S/o Shri Mukund Ram Yadav, Aged About 31 Years, Occupation Aryuvud Doctor, R/o Village Ghughasidih, Police Station Utai, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

- The State Of Chhattisgarh Through District Magistrate Durg, District Durg, Chhattisgarh.

---- Non-applicant

For Applicant – Shri A.K.Prasad, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

08-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.242/2017 on 29-4-2017 by Police Station Jamul, District Durg, C.G. for the offence under Section 494, 326 of the IPC. After investigation police had filed the charge sheet which is pending before the Additional Sessions Judge (FTC) Durg, C.G. Learned counsel for the applicant would submit that the prosecutrix is aged about 34 years, her husband left her and as per the allegation, the incident is of 01-05-2009 till 15-04-2016. As per the written submission by the prosecutrix, on the pretext of marriage the applicant made physical relation with the prosecutrix and they were in physical relation since long and thereafter when the applicant denied to marry, the prosecutrix gave written complaint against the applicant; in the entirety there is no any element of against will and consent. The matter was not immediately reported when for the first time alleged relation was made, the prosecutrix remained silent for about 7 long years. The applicant will not abscond. Trial may take some time. The applicant may be granted bail till trial.
3. Per contra, learned counsel for the non-applicant/State opposed the

argument advanced on behalf of the applicant and would submit that initially the applicant committed rape with the prosecutrix and thereafter offered her for marriage and with the said false offer made physical relation for about 7 years and thereafter denied for the marriage resulting in written report by the prosecutrix. Hence, the instant MCRC may be dismissed.

4. Perused the entire material, written complaint and the statement of the prosecutrix recorded under Section 161 of the Cr.P.C.

5. On consideration of the entire facts, without commenting anything on its merit, I am inclined to grant one opportunity 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.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the trial Judge 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