

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4247 of 2017**

- Chandresh Rekwar S/o Late Ashok Kumar Rekwar, Aged About 38 Years R/o Near Shiv Mandir Raja Talab Raipur, Tahsil & District Raipur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Civil Lines District Raipur Chhattisgarh

---- Respondent

For Applicant	: Shri PP Sahu, Advocate
For Respondent/State	: Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****01.8.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.209/2017 registered in Police Station Civil Lines, Distt. Raipur (CG) for the offence punishable under Sections 376 & 506 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 28.3.2017, after investigation charge sheet has been filed presently pending before Chief Judicial Magistrate, Raipur as Criminal Case No.3875/2017. The matter is committed to the Court of Session but counsel for the applicant did not know the session trial number. Learned counsel for the applicant would

submit that FIR has been lodged on 28.3.2017 on the basis of written report dated 27.3.2017, statement of the prosecutrix is also recorded under Sections 161 & 164 of the Cr.P.C. The prosecutrix, a widow of 28 years, has two children out of her wedlock. In the written report as well as in the statement recorded under Sections 161 & 164 Cr.P.C. prima facie there is no ingredients as required under Section 375 of the IPC. Only allegation against the applicant is that on the false promise of marriage, the applicant made physical relationship with the prosecutrix repeatedly. As the ingredients of Section 375 IPC is not attracted, the applicant may be enlarged on bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and would submit that on the pretext of marriage, the applicant repeatedly made physical relationship with the prosecutrix and thereafter denied for the marriage. Hence, the instant bail application may be dismissed.

5. Perused the entire material.

6. The applicant is in custody since four months four days, charge sheet has been filed, the trial may take sometime for its conclusion, he is the first offender, after perusal of the statement of the prosecutrix recorded under Sections 161 & 164 of Cr.P.C., prima facie there is no ingredients attracted for the requirement of Section 376 IPC. Without commenting anything on its merits, I am inclined to grant one opportunity to the applicant so that he

will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of like sum amount to the satisfaction of the Chief Judicial Magistrate, Raipur/Trial Court as the case may be for his appearance before the said Court as and when directed.

9. 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 the above, the Court below may proceed further under the provisions of law, under intimation.

10. In addition, the applicant is directed not to communicate/contact in any of the manner with the prosecutrix, witness and family members or attempt to ask for any favour in the trial directly or indirectly. If so, the witnesses and the prosecutrix may report the said act to the trial Judge and if the trial

Judge finds that in any way the applicant directly or indirectly gave pressure or any attempt for any illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicant in custody including other measures as provided under the law.

11. Registrar (Judl.) is directed to send a copy of this order to the concerned trial Judge.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE