

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4425 of 2017

- Dileshwar @ Dile S/o Dhaneshwar Tirkey, Aged About 27 Years, Caste - Uraon, R/o Karabel, Khalpal, P. S. and Tahsil - Sitapur District - Surguja, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through SHO, Police Station - Sitapur, District - Surguja, Chhattisgarh.

---- Non-applicant

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

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-10-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for grant of regular bail. The applicant held arrested on 02-06-2017 in connection with Crime No.111/2017 registered at P.S. Sitapur, District Surguja, C.G. for the offence under Section 376(2)(6) of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix had earlier lodged one FIR in P.S. Sitapur, Distt. Surguja alleging in it that she and the applicant had affair and lived as husband and wife in the year 2013, when she became pregnant but her pregnancy got aborted, thereafter, she has started residing with her father. No action was taken by the police and a report was given under Section 155 of the Cr.P.C. asking the prosecutrix to approach the Court for relief. Thereafter, another FIR was lodged by the prosecutrix on 01-06-2017 by filing written complaint on the basis of which offence under Section 376(2)(6) of the IPC has been registered against the applicant. It is informed that investigation has been completed and charge sheet has been filed. It is further submitted

that the prosecutrix had been major at the time of said incident and no offence is made out against the applicant on the basis of the material of the prosecution case. Hence, it is prayed that the applicant may be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made in this respect. It is submitted that as per the FIR lodged against the applicant, affair between the applicant and the prosecutrix started in the year 2007 and continue till 2017, when the applicant get engaged with some other girl to marry her, on that event the prosecutrix has lodged the FIR against the applicant. It is submitted that the applicant has sexually exploited the prosecutrix on false pretext of marriage. Hence, he is not entitled for grant of bail.

4. Heard learned counsel for both the parties and perused the case diary.

5. Considering the facts and circumstances of this case and the submissions made by both the counsel, I am of the considered view that this is a fit case where the applicant should be enlarged on bail.

6. Consequently, the application (MCRC No.4425/2017) filed under Section 439 of the Cr.P.C. by the applicant is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

7. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge