

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4703 of 2017**

- Puranik Patel S/o Jogiram Patel, Aged About 20 Years Student, R/o Village Rauta, Police Station Bori, District Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh, Civil & Revenue District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri BP Singh, Advocate
For Respondent/State	: Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17.8.2017**

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.119/2017 registered in Police Station Dongargarh, Distt. Rajnandgaon (CG) for the offence punishable under Section 376 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 14.4.2017, after investigation, Police has filed charge sheet which is pending before Judicial Magistrate First Class, Dongargarh as Criminal Case No.198/2017, the matter is probably not yet committed. Learned counsel for the applicant would submit that the applicant is the first offender, he

never involved in any other offence and after perusal of the written complaint, statement of the prosecutrix recorded under Section 161 & 164 of the Cr.P.C., it appears that in the pretext of marriage, the applicant made physical relationship with the prosecutrix, the FIR was delayed by about seven months and in the aforementioned documents, prima facie, there is no ingredients attracted under the provisions of Section 375 of the IPC. It appears that probably the parties are consenting, the trial may take some time for its conclusion, he will not commit any offence in future, hence, he may be granted bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant and would submit that on the pretext of marriage, the applicant made physical relationship with the prosecutrix, and this fact is surfaced in the chargesheet, hence instant bail applicant may be dismissed.

5. Perused the entire material.

6. The applicant is in jail for four months and three days, charge sheet has been filed, trial may take some time for its conclusion, he is the first offender, on perusal of the written complaint, statement of the prosecutrix recorded under Sections 161 & 164 of Cr.P.C. it appears that prima facie, factum of rape is not surfaced and as the relation was made in the pretext of marriage and closeness i.e. affair, without commenting anything on its merits, and looking to the entire facts, 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 two separate solvent sureties of Rs.25,000/- to the satisfaction of Judicial Magistrate First Class, Dongargarh/trial Court 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, family members and witnesses cited in the charge sheet 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