

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4652 of 2017

- Vipin Singh @ Buntty S/o Shree Dhaniram Thakur, Aged About 33 Years, R/o Ward No. 21 Sarkari Dafai, Chota Bazar Chirmiri, Police Station Chirmiri Tehsil Khadgva District Koriya Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Chirmiri District Koriya Chhattisgarh

---- Non-applicant

For Applicant – Ms. Sharmila Singhai, Advocate.

For Non-applicant/State – Mr. U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

16-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.199/2017 on 22-5-2017 by P.S. Chirmiri, District Koriya C.G. for the offence under Section 376(2)(n) and 493 of the IPC. After investigation police had filed the charge sheet which is pending before the JMFC Chirmiri, District Koriya, C.G. as Criminal Case No. 227/17. Thereafter, the matter was committed for trial, presently pending before the First Additional Sessions Judge Manendragarh, District Koriya, C.G., but, learned counsel for the applicant is not aware of the sessions trial number. Learned counsel for the applicant would further submit that the prosecutrix is a major woman. Police had registered the matter against the applicant on basis on written complaint by the porsecutrix. In the entire written complaint there is nothing to demonstrate any ingredient required under Section 375 of the IPC. With this, as there is no any element of rape without consent and against her will. As per the allegation, the physical relation was made in the pretext of marriage. The applicant is innocent. He is falsely implicated. He may be granted an opportunity to remain in bail as the trial may take some time, the

applicant will not involve in any of the offence.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant as the applicant gave false promise to marry the prosecutrix and thereafter made physical relation, hence, looking to the entire act, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 2 months and 22 days till date, the prosecutrix is a major woman, as per FIR the incident is from 1 October 2015 till December 2016, in the written report, prima facie there is no any content as required for commission of rape in the light of definition clause, Section 375 of the IPC, on consideration of the entire matter, without commenting anything on its merit, I am inclined to grant one 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.50,000/- with two solvent sureties of Rs.25,000/- to the satisfaction of the First Additional Sessions Judge Manendragarh, District Koriya, C.G./Trial Court 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. In addition, the applicant is directed not to communicate/contact in any

of the manner with the prosecutrix and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. 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 gave pressure or any attempt for any illegal favour in the trial or otherwise directly or indirectly, 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.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge