

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5726 of 2017

- Nitin Chourasiya S/o Shri Tulsi Ram Chourasiya, Aged About 30 Years Caste Berai, R/o Depot Colony, Rampur, Korba, Tahsil And District Korba, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Balco, Korba, District Korba, Chhattisgarh.

---- Non-applicant

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

For Non-applicant : Mr. Surya Kant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

02.11.2017

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.

2. Perused the copy of the charge-sheet provided by the learned counsel for the applicant in connection with crime No. 195/2017 registered at Police Station – Balco, District – Korba (C.G.) for the offence punishable under Sections 376 and 506 of the Indian Penal Code.

3. Case of the prosecution, in brief, is that the prosecutrix was near about 24 years old and resided at village Ayodhyapuri, Tahsil – Katghora, District – Korba. During the study in college, the prosecutrix

and the said applicant Nitin Chourasiya came in contact with each other and a love affair was developed between them. In the month of January, 2012 the said applicant committed sexual intercourse for the first time with the prosecutrix saying that he would marry her. The relationship was continued. The said applicant performed marriage with Priti Patel, thus the prosecutrix given an application to the Superintendent of Police, Korba. On the strength of which the FIR was lodged against the applicant.

4. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the case, therefore, he may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application.

6. As per the statement of the prosecutrix recorded under Section 164 of the Cr.P.C. they had developed physical relationship. After fixing marriage of the said applicant and engagement of the prosecutrix herself, they decided that they would marry as decided by their family members but they would continue their relationship.

7. Looking to these circumstances and other facts of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, the trial will take its own time, applicant is in custody since 03.07.2017, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.

8. Consequently, the bail application is allowed.

9. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond in the like sum to the

satisfaction of the concerned Trial Court with the condition that he will appear before the Trial Court at 11:00 am as and when directed till trial and will cooperate during the trial, he shall be released on bail.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE