

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4279 of 2017**

Santosh Kumar Yadav S/o Shri Balgovind Yadav, Aged About 25 Years
R/o Village Kothari, Police Station Manendragarh, Korea, District
Korea, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Manendragarh, Civil &
Revenue District Korea, Chhattisgarh.

---- Respondent

For applicant	Mr. Adil Minhaj, Adv.
For Respondent/State	Mr. Sumit Jhanwar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****1-8-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 26-12-2016 in connection with Crime No. 439/2016 registered in PS Manendragarh, Distt. Korea (CG) for offence punishable under Section 376 and 506-B of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the 1st Addl. Sessions Judge, Manendragarh, Distt. Korea (CG) as ST No. 52/2017. He further submits that this is his second bail application before this Court. First bail application MCRC No. 1671/2017 was disposed of as withdrawn on 27-3-2017 with liberty to revive at a later stage. The case is registered against the applicant on the basis of written report. Police during investigation also recorded statement of the prosecutrix under Section 161 of the Cr.P.C. and also her statement under Section 164 of the Cr.P.C. before the concerned Judicial Magistrate First Class. In all the three statements, there is no

ingredient as required to formulate rape as defined under Section 375 of the IPC. He is in custody since more than 7 months till date. He will not abscond and cooperate in trial. He may be enlarged on bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that though love affair developed between the prosecutrix and the applicant but on the promise of marriage, the applicant made physical relation with the prosecutrix and thereafter denied for marriage and also gave threat to take life hence instant MCRC may be dismissed.
5. Perused the entire matter.
6. On due consideration, as the applicant is the first offender, he is in jail since 7 months and 5 days till date and after perusal of written report, statement under Sections 161 and 164 of the Cr.P.C., prima facie it lacks the ingredients required to constitute the offence of rape under Section 375 of the IPC. Upon consideration of entire fact, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the 1st Additional Sessions Judge, Manendragarh Distt. Korea CG for his appearance before the said Court regularly as and when directed by the said Court.
7. 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: (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.

8. CC as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**

Pathak