

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 528 of 2018

- Shivkumar Kushwaha S/o S/o Rampratap Kushwaha, Aged About 28 Years R/o Village Amhar, Police Station Patna, Tahsil Baikunthpur District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Mahila Thana, Ambikapur Civil And Revenue District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicant – Shri S.S. Rajput, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-03-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 30-08-2017 in connection with Crime No.09/2017 registered at P.S. Ambikapur, District Surguja Chhattisgarh for the offence under Section 493, 376(2)(n), 109 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 been a major lady at the time of the incident and all the physical relation that has been taken place between the applicant and the prosecutrix were consensual as there had been some marriage proposal, which could not materialize and this applicant got married to some another woman in April 2016, even then the prosecutrix continued her physical relation with this applicant upto 18-04-2017. Subsequent to that, because of some misunderstanding the prosecutrix has lodged false FIR against this applicant.

3. Learned counsel for the State/non-applicant opposes the application and submits that no case is made out for grant of bail.

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

5. According to the prosecution case, marriage negotiation had taken place between family of the applicant and the prosecutrix and even marriage agreement was executed on 11-03-2015. Subsequent to that, on 13-03-2015 the applicant and the prosecutrix for the first time had physical relation in a hotel and this physical relation continued subsequently. As marriage between the applicant and the prosecutrix could not materialize, because of which, the applicant married some other girl on April 2016, and then the prosecutrix lodged FIR.

6. Considering the entire material present in the case diary and nature of the allegation made against this applicant, I am of this view that this applicant should be released on bail during pendency of the trial against him.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge