

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1101 of 2018

- Dipesh Agrawal, aged about 24 years, son of Rajamohan Agrawal, resident of Vijay Nagar, Manju Bhawan Ward No. 10, Durg, District-Durg (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station-Mohan Nagar, District- Durg (Chhattisgarh).

---- Respondent

For Applicant : Ms. Sunita Jain, Advocate.
For Respondent/State : Mr. Vinod Tekam, Penal Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

03/04/2018

1. Heard.
2. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 491/2017 registered at Police Station- Mohan Nagar, District – Durg (Chhattisgarh) for the offence punishable under Sections 376 & 420 of Indian Penal Code.
3. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case, the applicant is in jail since 26.11.2017, earlier the applicant and the prosecutrix had earlier love affair for about 4 years, subsequent to that as the marriage of the prosecutrix and the applicant could not be performed, she lodged a false report on 31.05.2017. On the basis of which charge-sheet was filed against this

applicant. The trial in that case was completed on 23.09.2017, in which the applicant was acquitted of the offence punishable under Section 376 of the Indian Penal Code and the offences registered under the POSCO Act. However, the prosecutrix again approached to this applicant to force him to marry her but when the applicant could not be found in his residence, she shut herself in the shop of the father of the applicant and remained inside the shop for almost about 19 hours and thereafter she was brought out by the police. A written complaint has been lodged by the applicant on 09.10.2017 that the prosecutrix has threatened to implicate him and his father in false case. A similar complaint was also lodged by the father of the applicant at police station on 31.10.2017 and another complaint was filed on 2.11.2017 by the father of the applicant. He further submits that consequent to that complaints the prosecutrix has lodged FIR on 25.11.2017 making allegation of rape against this applicant. Although the date of incident mentioned in the subsequent FIR is 17.09.2017, but the statement of the prosecutrix recorded under Section 164 of Cr.P.C. makes it clear that the allegation of rape levelled against the applicant by the prosecutrix is the consequence of the facts in earlier FIR lodged by prosecutrix. He submits that the applicant is ready to abide by all the conditions and directions, which may be imposed while granting bail to him. Hence, it is prayed that applicant be enlarged on regular bail.

4. Learned State counsel opposes the bail application and submits that the prosecutrix has been sexually exploited by the applicant for about 4 years, on the false pretext of marriage, hence, he is not entitled for grant of regular bail.
5. Heard both the parties and perused the case diary.
6. According to the prosecution case, that when the prosecutrix was minor this applicant by alluring her with false promise to perform marriage, had

established physical relation with her. When the prosecutrix lodged a report and the chargesheet was filed on the basis of FIR against this applicant, the prosecutrix was induced by applicant and others to retract from her statement in that case before the Court, so that the applicant gets acquitted and then he will perform marriage with the prosecutrix. Thereafter, the prosecutrix retracted from her statement and consequently, the applicant got acquitted in that case. But subsequently the marriage was not performed. On 27.09.2017 applicant performed fake marriage with the prosecutrix in a temple and again established physical relation with her. It is alleged that the parents and other family members of the applicant have not allowed the prosecutrix to become a part of their family, hence the FIR was lodged again on 25.11.2017 by the prosecutrix. Hence this case.

7. Considering on the entire material present in the case diary, and presently the prosecutrix is a major girl and her age was above 18 years on the date of incident, it appears that as the prosecutrix had always intended to marry the applicant, which has been obstructed so far and considering on the nature of the allegation made against the applicant, I am of this opinion that applicant should be benefited with grant of regular bail.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge