

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 394 of 2019

- Manoj Kumar Joshi, S/o Shri Vibhishan Joshi, Aged About 30 Years R/o Bandha Talab, Near D-Raju Kirana Stores, Buniyad Nagar, Bhanpuri, Tahsil & District Raipur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Dharsiwa, District Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Dharmesh Srivastava, Advocate.
For Respondent/State : Mr. Lav Sharma, Panel Lawyer.

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

27/03/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.7/2019 registered at Police Station-Dharsiwa, District-Raipur(C.G.), for the offence punishable under Section 376(2)(n) of Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. No case is made out against this applicant. The prosecutrix is a major woman, presently of age 30 years. According to the allegation made by her, it is a clear case of consensual physical relation between the applicant and the prosecutrix and her only grievance is this, that applicant has refused to marry her. The marriage with prosecutrix was not possible because the prosecutrix herself is a married woman and she has not been divorced

by her husband, hence, it is prayed that applicant may be released on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that prosecutrix has clearly alleged that the applicant obtained the submission of prosecutrix by making false promise to marry her, therefore, it was not a freeconsent given, hence, the application be rejected.
4. Heard both the parties and perused the case diary.
5. According to FIR lodged applicant on pretext of marriage, had developed physical relations with the prosecutrix and exploited her sexually from 21.5.2014 to 8.8.2017 and, thereafter, he has refused to marry her. Hence, this case.
6. Considered on the material present in the case diary, these facts has appeared in the investigation that prosecutrix is a married woman and so far she has not been divorced by her husband, for these reasons, I feel inclined to allow this application.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :
 - (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;

- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge