

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3975 of 2019

- Anil Tirkey, S/o Late Ajlus Tirkey, Aged About 33 Years, Occupation Helper in Vidyut Mandal, R/o Village Penta, Police-Station & Tahsil Bagicha, District-Jashpur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police-Station, Gandhi Nagar, District-Surguja, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Goutam Khetrapal & Mr. Jitendra Shrivastava, Advocates.
For Respondent/State	:	Mr. Aditya Sharma, Panel Lawyer.
For Objector	:	Mr. A.K. Prasad, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/07/2019

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.130/2019 registered at Police Station–Gandhi Nagar, District–Surguja(C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicant is in jail since 26.5.2019. Applicant is an employee of CSPDCL. He has been placed under suspension after arrest in this case. No offence has been committed by him. The prosecutrix is a major woman of age 36 years

and she had been a consenting party in the relation between them, therefore, it is prayed that he may be enlarged on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that according to the statement of prosecutrix, the applicant had established relationship with the prosecutrix on the basis of a false promise to marry her and exploited her, therefore, applicant is not entitled for grant of bail.
4. Learned counsel for the Objector after adopting argument submitted by counsel for State opposes bail application and submissions made in this respect. It is submitted that the applicant had given assurance to the prosecutrix that he will marry her and also adopt her child, but he has broken that promise, therefore, the consent that was obtained from the prosecutrix was by deceit, therefore, it was not a free consent, hence, the application be rejected.
5. Heard both the parties and perused the case diary.
6. According to the prosecution case, it is alleged that the applicant met with the prosecutrix on 16.4.2017 and had forceful sexual intercourse with her and, thereafter, he promised that he will marry her and this relationship continued upto 21.12.2018. The prosecutrix then discovered that the applicant has got engaged with someother girl, that is why FIR was lodged on 26.5.2019. Hence, this case.
7. After considering the entire material present in the case diary, all the facts and circumstances of this case and for the reason that prosecutrix is a woman of age about 36 years and the relationship between applicant and prosecutrix continued for quite some time, therefore, under this circumstance, I feel inclined to allow the application of this applicant.

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 regular 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 trial Court, for his appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha