

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5167 of 2019**

Prashant Muriya S/o Late Shibo Muriya Aged About 22 Years R/o Village Boregaon, Panaraguda, Thana - Bade Aamda, District - Navarangpur (Odisha)

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station - Nagarnar, District - Bastar Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Vikash Pradhan, Advocate.
For the Respondent/State	:	Shri Chandra Bhushan Kesharwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.09.2019**

Heard.

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.135 of 2019, registered at Police Station – Nagarnar, District – Bastar, Chhattisgarh for the offence punishable under Sections 366 and 376 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 24.7.2019 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The prosecutrix is 23-year old lady and she had been a consenting party throughout. The applicant and the prosecutrix both

had some love affair between them and the prosecutrix insists that the applicant should marry her during which the physical relation has also occurred. Since the applicant married to some other person, a false FIR has been lodged in this case. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that it is a clear case of obtaining consent of the prosecutrix by deceit for sexual intercourse. Hence, the applicant is not entitled for grant of regular bail.

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

5. According to prosecution case, the applicant and the prosecutrix used to meet each other and the prosecutrix wanted the applicant to marry her. Thereafter, for some period, the applicant and the prosecutrix both lived together in a village during which, they had physical relation. Subsequently, the applicant has married to some other person.

6. Considered the material present in the case-diary. The prosecutrix was competent to give her consent for physical relation at the time when the incident occurred, therefore, I feel inclined to grant bail to the applicant in this case.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that 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 trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge