

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 143 of 2020**

- Dhanuk Lal Sahu S/o Late Banshi Lal Sahu, Aged About 37 Years R/o Quarter No. 148/2, Street No. 8, W.R.S. Colony, Khamtarai, District Raipur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Khamtarai, District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Mr. Harshwardhan Parganiha, Advocate.
For Respondent/State	:	Mr. H.S. Ahluwalia, Dy. A.G.
For Objector	:	Mr. Syed Ishhadil Ali, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/06/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.676/2019 registered at police station– Khamtarai, District- Raipur, (C.G.) for alleged commission of offence under Sections 376 & 506 of Indian Penal Code.
2. Allegation against the applicant is that on the false pretext of marriage, the applicant maintained illicit relation with the prosecutrix and committed rape on her.
3. Learned counsel for the applicant argues that the FIR lodged by the prosecutrix, herself, demolished the case of the prosecution because in the FIR, the prosecutrix has admitted that she was having living in relationship with the applicant since January, 2017, followed by their marriage in a temple and they were residing together as husband and wife. He further highlights that the text and tenor of the FIR is that when the applicant despite assurance, did not take divorce from his first wife, FIR was lodged. Therefore, no case is made out against the applicant.
4. On the other hand, learned counsel for the State opposes prayer and submits that the applicant obtained consent of the prosecutrix on the false

pretext that his wife left him and is maintaining illicit relation with another person and he would get divorce. After having drawn long relation with prosecutrix and married her also, the applicant did not take any step to obtain divorce which prima facie shows that the consent was obtained by the prosecutrix and therefore, it cannot be said to be free consent and as such a prima facie case of commission of offence under Section 376 IPC is made out.

5. Learned counsel for the Objector also opposes prayer and submits that in fact prosecutrix belong to Scheduled Caste but the police has not registered any offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Having considered the submissions of learned counsel for the parties and particularly taking into consideration the contents of the FIR lodged by the prosecutrix, herself, that she was maintaining relations with the applicant ever since January, 2017 and that later on, prosecutrix married applicant, they were living together as husband and wife and the report came to be lodged when applicant could not succeed in getting divorce from his first wife. In the FIR, it is not lodged that the prosecutrix was not knowing about the first marriage. Though, objection is taken as, no offence has been registered on the allegation of commission of offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Therefore, present is a fit case for grant of anticipatory bail, accordingly the application is allowed.

7. Accordingly, it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local sureties for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he 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 from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge