

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 347 of 2020

Neelambar Nageshiya S/o Shri Premsai Nageshiya, Aged About 21
Years Occupation Agriculturist, R/o Village Ratanpur, Police Station -
Kapu, Tahsil - Dharamjaigarh, And District - Raigarh Chhattisgarh.,

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer Of The Police
Station - Kapu, Tahsil - Dharamjaigarh, And District - Raigarh
Chhattisgarh

---- Respondent

For Applicant	:	Mr. Abhishek Saraf, Advocate.
For Respondent/State	:	Mr. Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/06/2020

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.05/2020 registered at police station – Kapu, Tahsil Dharamjaigarh and District Raigarh (C.G.) for alleged commission of offence under Section 376, 506 of IPC.
2. Case of the prosecution is that the applicant kept on sexually exploited the prosecutrix on the false pretext of marriage and thereafter, when she became pregnant, the applicant refused to fulfill his promise of marriage with the prosecutrix.
3. Learned counsel for the applicant would submit that on the face of it, the contents of FIR show that even according to prosecutrix, she had a long standing affair and physical relationship with the applicant. He would submit that the prosecutrix came to file FIR only when the marriage could not be materialized and after she became pregnant. Therefore, it is not a case of commission of offence under Section 376 of IPC, particularly, when the prosecutrix is a mature lady, aged about 30 years and she, herself, is a married.

4. On the other hand, learned State counsel opposes the prayer and submits that even though the prosecutrix has stated regarding long standing affair with the applicant, the applicant sexually exploited her on false pretext of marriage, therefore, consent of sexual intercourse over the period of 1 ½ years cannot be said to be free consent.

5. Having considered the submission of learned counsel for the parties and material on record, even according to the prosecutrix, she is a major lady and was having long standing affair with the applicant. The occasion to file FIR arose when because of the relations between the parties, the prosecutrix became pregnant and the applicant did not proceed to marry her. Therefore, present is a fit case for grant of anticipatory bail. Accordingly, the application is allowed.

6. 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 surety 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)

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