

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2459 of 2020

- Naval Kishore Tiwari S/o Ramanand Tiwari, Aged About 32 Years, R/o Belchampa, P. S. Gadhma, Jharkhand. Present Address-Mahavirganj, Police Outpost-Vijay Nagar, P.S. Ramanujanj, District Balrampur-Ramanujanj Chhattisgarh., District : Balrampur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Ramanujanj, District Balrampur- Ramanujanj Chhattisgarh., District : Balrampur, Chhattisgarh

----Non-applicant

For Applicant – Shri Awadh Tripathi, Advocate.

For Non-applicant/State – Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-06-2020

1. Learned counsel for the applicant submits that the default pointed out by the Registry has been cured and the case diary is also available. Therefore, the application be heard finally.
2. Learned counsel for the State also submits that the case diary is available and he is ready to argue the case finally.
3. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 20-03-2020 in connection with Crime No.39/2019 registered at Police Station - Ramanujanj, District Balrampur-ramanujanj, Chhattisgarh for the offence under Section 376 of the IPC.
4. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix in the case is aged 25 years and the relationship of the applicant and the prosecutrix has continued for almost five years which shows that the prosecutrix was a consenting party. Therefore, no case is made out against the applicant. Therefore, it is prayed that he may

be granted bail.

5. Learned counsel for the State/non-applicant opposes the application and submits that the applicant is resident of Jharkhand and secondly there is evidence that he has exploited the prosecutrix sexually on pretext of marrying her and also he has performed a sham marriage with the prosecutrix. Therefore, he is not entitled for grant of bail.

6. Heard learned counsel for the parties and perused the documents.

7. According to the prosecution case, the applicant and the prosecutrix became acquainted with each other about five years prior to the date of lodging of the FIR, then the applicant allured the prosecutrix with false promise of marry her and he exploited her sexually. On subsequent date the applicant took the prosecutrix to his native place and he also performed a sham marriage with her. Subsequent to that, the applicant has deserted the prosecutrix because of which the FIR has been lodged.

8. After considering the facts and circumstances of this case and looking to the long relationship that has continued between the applicant and the prosecutrix who is major, I feel inclined to allow this application.

9. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.

10. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge