

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.3424 of 2020

Pradeep Dewangan S/o Mr. Pawan Kumar Dewangan Aged About 25 Years
At Near Bhatagaon Chowk, Purani Basti, Raipur Chhattisgarh. Permanent
Address Village Charbhata, P.S. Kurud, District Dhamtari, Chhattisgarh.,

----Applicant

Versus

State Of Chhattisgarh Through Mahila Thana, Raipur, Chhattisgarh., District :
Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Lukesh Kumar Mishra, Advocate
For Respondent/State	:	Shri Gagan Tiwari, Dy. G.A.
For Objector	:	Mr. Vivek Singhal, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/08/2020

Heard.

1. The applicant has been arrested in connection with Crime No.30 of 2020 registered at Police Station- Mahila Thana, District Raipur (CG) for the alleged commission of offence under Section 376 of IPC.
2. Case of the prosecution is that on false pretext of marriage, the applicant was having long standing relationship for about 3 years prior to the date of the filing of the FIR and the applicant also committed sexual intercourse on the prosecutrix, amounting to rape.
3. Learned counsel for the applicant would argue that on the face of the FIR lodged by the prosecutrix, present is a case of long standing affair between the applicant and the prosecutrix and they had long live in relationship therefore, present is a not a case of rape on the prosecutrix is made out and she chose to lodge an FIR only after the relationship between the parties were strained and marriage could not materialize.
4. On the other hand, learned counsel for the State and Objector would argue that from the contents of the FIR as also the statement under Section 164

Cr.P.C. given before the Magistrate and Section 161 Cr.P.C. statement contained in the charge-sheet, sexual act of the applicant amounts to commission of offence of rape even though there was no insertion of male organ. Learned counsel for the respondent would submit that all the sexual act of the applicant with the prosecutrix were on false pretext of marriage, therefore, it cannot be said to be a case of free consent and would therefore amount to rape. Further submission is that the contents of the whatsapp messages filed by the Objector which were exchanged between the applicant and the prosecutrix prior to lodging of FIR on 12.05.2020 discloses that applicant was threatening the prosecutrix to kill her if she insists on continuity of relationship between the parties. Additionally, it has also been submitted that after arrest of the applicant, the father and brother of the applicant are continuously threatening the prosecutrix that if she does not withdraw the case, she would be murdered.

5. I have considered the submission of learned counsel for the parties, present appears to be a case of long standing affair between the applicant and the prosecutrix and the alleged act of sexual intercourse/sexual act said to have been done during the course of such relationship. As against this, this Court also finds that against such grave allegation leveled by the prosecutrix against the present applicant, there exists evidence to show that the prosecutrix is being threatened not only by the applicant but also by the relations of the applicant and therefore, in the event of grant of bail to the applicant, the possibility of applicant tampering prosecution witness cannot be ruled out. Therefore, for this reason alone, at present, I am not inclined to grant bail to the applicant. Therefore, the bail application is rejected. In case, however, there is no likelihood of resumption of trial within three months, the applicant would be at liberty to revive the bail application.

Sd/-
(Manindra Mohan Shrivastava)
Judge