

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3911 of 2020

Suraj Sahu S/o Virendra Sahu, Aged About 21 Years R/o Near Dindayal Colony, Bahatarai, Sarkanda, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through - Station House Office, Police Station Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Harshwardhan Jaiswal, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.

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

Order On Board

19/08/2020

Heard.

1. The applicant has been arrested in connection with Crime No. 193/2020 registered in Police Station -Sarkanda, District- Bilaspur (CG) for alleged commission of offence under Section 376 IPC.
2. Case of the prosecution, in brief, is that the applicant entered into an affair and sexually exploited the prosecutrix by committing rape on her since 5.8.2017 on the false pretext of marriage so much so that the prosecutrix finally became pregnant. Thereafter, the applicant left her and claims to have married with another lady.
3. Learned counsel for the applicant would submit that on the face of it, the FIR itself shows that the applicant and the prosecutrix, a major lady, lived in relationship for about two and half years, but no marriage had taken place. He would submit that the allegation of the prosecutrix that she became pregnant out of the relationship with the applicant is false. It is

also argued that the FIR was lodged by the prosecutrix only on 27.2.2020 when the applicant informed her that he was not in a position to live with her as he has already married with another lady. Therefore, under these circumstances, the applicant may be granted bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that the FIR lodged by the victim shows that the applicant entered into sexual relationship with the prosecutrix by giving her assurance of marriage which he never performed. This shows that the applicant committed sexual intercourse on false pretext of marriage and therefore, it cannot be said to be a free consent and would therefore amount to rape.
5. I have considered the submissions made by learned counsel for the respective parties. On prima facie considerations, the FIR itself states that the prosecutrix, a major lady, had a longstanding 'live in relationship' with the applicant since 2017. Even after the prosecutrix having become pregnant and delivered child, no report was lodged, but the occasion to lodge report arose when the prosecutrix came to know that the applicant conducted marriage with some other lady. Therefore, in these circumstances, I am inclined to grant bail to the applicant, taking into consideration that present is a prima facie case of consensual sexual relationship.
6. The application is accordingly 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge