

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 5859 of 2020

- Deepak Markam S/o Ram Prasad, aged about 20 years, residing at Village Lakhanpuri, P.S. Kondagaon, District Kondagaon (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : The Police Station Kondagaon, District Kondagaon (C.G.)

---- State/Non-applicant

For Applicant : Shri Pravin Kumar Tulsyan, Advocate

For Non-Applicant/State : Shri Dinesh Tiwari, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

17.11.2020

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 18.06.2020 in connection with Crime No. 102/2020 registered in Police Station- Kondagaon, District Kondagaon (CG) for the offence punishable under Sections 376 (2) (n) and 306 of IPC.
2. As per prosecution, on 06.07.2018 the prosecutrix committed suicide in her home by hanging herself. Prior to her death, she wrote a suicide note in which she made allegation against the applicant, resident of Village Lakhanpuri. The prosecutrix was having a love affair with the applicant and prior to 3-4 days of her death, the applicant called the prosecutrix to his home where the prosecutrix remained with the applicant for three days and during this period, the applicant made physical relations with her on the pretext that he would marry her. Thereafter, the applicant refused to marry her and expelled her from his house. Due to this reason, the prosecutrix used to remain sad and committed suicide by hanging herself.
3. Learned counsel for the applicant submits that the applicant was 18 years of age on the date of incident as his date of birth is 15.02.2000 and he was legally incapable of marrying the prosecutrix. He further submits that the

applicant never refused to marry the prosecutrix and further the F.I.R. was lodged against the applicant after a long delay without any sufficient reason. He submits that the prosecutrix was a major girl and as such, she was very much aware of her well being but even then she had physical relations with the applicant of her own free will. He submits that admittedly, the merger was lodged by the brother of the prosecutrix where he has stated that the prosecutrix used to remain upset before her death and therefore, she committed suicide by hanging herself. The applicant has been falsely implicated in this crime, he is languishing in jail since 18.06.2020, and conclusion of the trial is likely to take some time.

4. On the other hand, learned counsel for the State opposes the bail application.
5. Having regard to the facts and circumstances of the case, the manner in which the incident took place, the age of the applicant as well as the prosecutrix and the detention period of the applicant and the fact that the conclusion of the trial may take some time, without expressing any opinion on merits of the case, this Court is of the opinion that the present is a fit case for releasing the applicant on bail. Accordingly, the application is allowed.
6. It is directed that in the event of applicant executing a personal bond for a sum of Rs.20,000/- with two sureties for the like amount to the satisfaction of the concerned trial Court, he shall be released on bail. He is directed to appear before the trial Court on each and every date given to him by the said Court, till disposal of the trial.
7. It is made clear that the applicant shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Bench.

Sd/-
(Gautam Chourdiya)
Judge