

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1230 of 2020**

- Shivprasad Sanvasi S/o Late Jhumuk Ram Sanvasi Aged About 34 Years R/o Gadhatoli, Jashpur Nagar, Tahsil And District Jashpur Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station, City Kotwali, Jashpur Nagar, District Jashpur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. C. Jayant K. Rao, Advocate.
For Respondent/State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/12/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.161/2020 registered at Police Station–City Kotwali, Jashpur Nagar, District-Jashpur, (C.G.) for alleged commission of offence under Section 376 of Indian Penal Code.

2. Prosecution case is that the applicant entered into relationship with the prosecutrix way back in the year 2009 and since then, the applicant has been sexually exploiting the prosecutrix. Allegation against the applicant is that the applicant has given false pretext of marriage and kept on exploiting the prosecutrix. It is further alleged that from the relationship of the applicant and the prosecutrix, prosecutrix became pregnant twice but it was aborted. Though, an application was prepared by both for Court marriage but it could not materialise and later on, the applicant married another lady.

3. Learned counsel for the applicant submits that the prosecutrix allegation do not make out a case under Section 376 of IPC. He would argue that the allegation of commission of sexual intercourse on false pretext of marriage is

not *prima facie* made out because the report itself has been lodged after 12 years of relationship with intervention of two abortions and after the applicant contacted another marriage with another lady.

4. On the other hand, learned counsel for the State opposes and submits that irrespective of the period, during which, the applicant and the prosecutrix had a long relationship, the genesis of relationship was based on promise held out by the applicant to the prosecutrix that he would be marrying her and because of that promise, the prosecutrix entered into sexual relationship with the applicant for so long period but ultimately the applicant did not marry her and married another lady and the promise turned out to be false.

5. Having considered the submissions of learned counsel for the parties, on *prima facie* considerations, the report has been lodged by the prosecutrix after 12 years since the applicant and the prosecutrix have been living in sexual relationship. The applicant appears to be related to the prosecutrix as the applicant's brother is married to prosecutrix's sister. Allegation of the prosecutrix herself shows that twice abortion was also done and both the parties had prepared application for submission to Court Marriage Officer but for some reason, it could not materialise.

Taking into consideration the totality of the circumstances which are reflected from the prosecutrix own version, present is a fit case for grant of anticipatory bail to the applicant. The bail application is accordingly 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 two local sureties 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)
Judge

Ravi