

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7626 of 2020**

- Suresh Munda S/o Shri Chhandu Munda Aged About 30 Years Residence Of Premnagar, Police Station- Basantpur, District- Balrampur-Ramanujganj, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Sunil Tripahti, Advocate.
For State	:	Mr. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****11/12/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.148/2019 registered at Police Station- Balrampur, District- Balrampur- Ramanujganj, C.G. for the alleged commission of offence under Section 376 (2-ढ) of IPC.
2. Prosecution case is that on false pretext of marriage, the applicant maintained sexual relations with the prosecutrix and the prosecutrix also became pregnant but later on, pregnancy was aborted and then, the applicant started avoiding to go for Court marriage, which is desired by the prosecutrix.
3. Learned counsel for the applicant submits that present is a case of false implication and on the face of the facts stated in the FIR and other documents, no commission of offence under Section 376 IPC is made out. Learned counsel for the applicant submits that the applicant never denied for marriage. The applicant and the prosecutrix were living in a long live in relationship and the applicant is willing to go for marriage by traditional form, whereas, the prosecutrix is insisting for Court marriage, which led to a dispute. In support of submission, learned counsel for the applicant has referred to counselling done on 06.06.2020 at 'Sakhi' One Stop Centre, Women and Child Department, District- Balrampur.

4. On the other hand, learned State Counsel opposes and submits that irrespective of subsequent conduct of the parties including the counselling proceedings, the applicant, all said and done, has not contacted marriage, which clearly shows that for one or other, he is avoiding to contact marriage and therefore, a *prima facie* case is made out that the applicant had been giving false pretext of marriage and in the name of such false pretext, he has been sexually exploiting the prosecutrix.

5. On *prima facie* consideration, on the basis of what has been stated in the FIR by the prosecutrix, it is seen that the applicant and the prosecutrix both are major and they had developed relationship and since December, 2019, they came into contact with each other and then from January, 2020, they have been in sexual relationship also. The prosecutrix also became pregnant but later on, pregnancy was aborted, till that time, no report was lodged anywhere. Further, on *prima facie* consideration, perusal of counselling proceedings dated 06.06.2020 conducted at 'Sakhi' One Stop Centre, Women and Child Department, District- Balrampur also indicates that the main dispute between the applicant and the prosecutrix seems to be form of marriage rather than consent for marriage. It shows that the applicant is willing for marriage but he is insisting for traditional form of marriage, whereas, prosecutrix is insisting for Court marriage. Therefore, there is considerable force in submission of the learned counsel for the applicant that the main operative reason for lodging FIR is not that the applicant denied marriage but because the parties are at loggerhead with regard to the mode, in which, the marriage is to be performed, therefore, present is a fit case for grant of bail to the applicant.

6. Accordingly, the bail application is 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 of the like amount to the satisfaction of the Trial Court on the condition that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge