

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7450 of 2020**

- Nilmani Sahu S/o Shri Kamlesh Sahu, Aged About 24 Years R/o Village - Sikola, Tahsil Patan, Police Station Patan, District Durg Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh, Through The District Magistrate, Durg, District Durg Chhattisgarh

---- Respondent

For Applicant	:	Shri Shashank Thakur, Advocate
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****08/12/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.120/20 registered at Police Station – Patan, District – Durg (C.G.) for alleged commission of offences under Section 450, 376 (2) (द) of IPC.
2. Prosecution case is that the applicant, by giving false pretext of marriage, entered into sexual intercourse with the prosecutrix and thereby committed rape on her.
3. Learned counsel for the applicant would argue that the allegations of commission of rape is not made out against the present applicant as it is the case of long standing affair between the applicant and the prosecutrix. He would argue that the applicant was the friend of the husband of the prosecutrix, who died in the month of December, 2019. In the case diary statement of Anita, the sister-in-law of the prosecutrix, it has been stated that the present applicant and the prosecutrix were caught red handed in a room on 22/08/2020 and since then, the prosecutrix, in order to save herself from the allegation of having illicit relation, lodged FIR against the applicant on 25/08/2020. It is submitted that the allegations against the applicant that he entered into sexual intercourse on false pretext of marriage is highly improbable and not made out and it was only to assure she is not made accused by any member of the family and applicant succumbs to marry.

4. On the other hand, learned State counsel argues that according to the FIR and 164 CrPC statement of the prosecutrix, though she and the applicant had developed relationship, the basis for such relationship and consent on the part of the prosecutrix for sexual intercourse was the assurance given by the applicant that he would marry her. Later on, despite having accepted the relationship in the panchayat meeting and signed documents, he did not marry, therefore, FIR has been lodged.

5. Prosecutrix is a major lady and a widow. According to her statement, the applicant was known to her as he was the friend of her deceased husband. The statement of the prosecutrix and other witness show that the applicant was regularly visiting the house of the prosecutrix. According to her sister-in-law, on 22/08/2020, the applicant and the prosecutrix were caught red handed in a room and their relationship was exposed and thereafter, FIR was lodged on 25/08/2020. In all the statements, the prosecutrix has admitted her long standing relationship with the applicant including sexual intercourse. Therefore, in the circumstances of the case, material on record and that investigation is complete, charge sheet has been filed and that the applicant is in jail since 22/09/2020, I am inclined to grant bail to the applicant.

6. Accordingly, the 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 for 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 make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge