

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7788 of 2020**

- Narayan Komre S/o Sukhdev Komre, Aged About 20 Years R/o Village Kanhe, Tehsil And P S Ambagadh Chowki, District Rajnandgaon Chhattisgarh,

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Ambagadh Chowki District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Priyank Rathi, Advocate.
For State	:	Mr. Lalit Jangde, Dy. Govt. Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****16-12-2020**

1. Heard
2. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in custody in connection with Crime No. 93 of 2020 registered in Police Station- Ambagadh Chowki, District Rajnandgaon (CG) for alleged commission of offence under Sections 376 and 506-II of IPC.
3. Case of the prosecution, in brief, is that the applicant and prosecutrix had entered into love affair and the applicant stated that he would be marrying her. During this period, the applicant had sexually exploited the prosecutrix on false pretext of marriage and thereafter he deserted her. According to the prosecution, it is a

case of sexual intercourse on the false pretext of marriage.

4. Learned counsel for the applicant, referring to the statement under Section 164 of Cr.P.C., recorded before the Magistrate, would argue that right from the beginning, the applicant and the prosecutrix were in love affair, as stated by the prosecutrix herself and then they entered into sexual relationship. If during that period, the applicant may have expressed that finally they would be marrying, it cannot be said that the sexual intercourse was only on the basis of marriage and not otherwise. He also submits that the prosecutrix never disclosed the incident to anybody until it was exposed when her pregnancy became apparent and she was taken to hospital by her parents. Therefore, it is argued that present is a case of consensual sex and even if the case of the prosecution is accepted as it is, it is not a case of rape because the applicant and prosecutrix were in love affair.
5. On the other hand, learned counsel for the State opposed the bail application and submits that though the prosecutrix stated that the applicant and the prosecutrix had love affair since January 2020, but in her statement it was stated that but for assurance of marriage in future the prosecutrix would not have entered into sexual intercourse, therefore, prima facie a case is made out.
6. On prima facie consideration, FIR and 164 Cr.P.C., statement, the love affair between prosecutrix and the applicant started in the month of January 2020 and prosecutrix is a minor. The prosecutrix's statement, prima facie, shows that they were having sexual relationship on many occasions and at one point of time, they expressed that their relationship would be brought to marital

relation in future. Further, it is also disclosed from the statement of the prosecutrix that the matter was never stated before anybody by the prosecutrix and her relation with the applicant was never disclosed by the prosecutrix anywhere and when she became pregnant and she was taken to hospital by her parents, FIR has followed thereafter as the applicant is stated to have denied the relationship.

7. Taking into consideration the submissions made by learned counsel for the parties, particularly considering the aforesaid material on record, I am inclined to grant bail to the applicant. Accordingly, the application is allowed and 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

Raju