

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 689 of 2021**

- Shivkumar Kashyap, son of late Badri Prasad Kashyap, aged about 30 years, Caste-Kashyap R/o village-Chorbhatti, Police Station Nawagarh, District Janjgir-Champa Chhattisgarh

-----Applicant

VERSUS

- State of Chhattisgarh through: District Magistrate, District Janjgir-Champa, Chhattisgarh

-----Respondent

For Applicant	: Mr. Vivek Singhal, Advocate
For Respondent- State	: Mr. B.P. Banjare, Deputy GA

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****11/06/2021**

1. Applicant has preferred this **First Bail Application** under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No.303/2020 registered at Police Station Nawagarh, District Janjgir-Champa (C.G.) for the offence punishable under Sections 376, 313/511, 323, 506(B), 318, 120(B), 34, 201 of IPC and Section 80 of Juvenile Justice Act.
2. Case of the prosecution is that the prosecutrix and the present applicant were having love affair since 2012, during this period, they made consensual physical relationship on number of occasions, both of them wanted to marry and when the family members of the present applicant went to the house of prosecutrix with the offer of marriage of prosecutrix with their son, family members of prosecutrix refused the same on the ground that they belong to same *gotra*. Thereafter, prosecutrix got married with some other person but after some time she returned back

to her house leaving her husband and again involved in the relationship with the applicant. The applicant had performed marriage with prosecutrix in a temple on 11.02.2016. Thereafter, Shivkumar under the pressure of his parents married with one Kavita but the relationship between applicant and prosecutrix continued. Prosecutrix conceived pregnancy in the year 2020, she was taken to doctor where she delivered pre-mature child of seven-months in April. Child was handed over to one Ashok Modi for treatment, during the course of treatment child died on 14.10.2020. Thereafter, prosecutrix went to the house of applicant to live with him, resided for sometime but the family members of applicant started misbehaving, ill-treated and also assaulted her. Complaint was lodged and on the basis of which aforementioned crime was registered against the present applicant and other family members ie. mother, wife and sister.

3. Mr. Vivek Singhal, learned counsel for the applicant submits that the applicant has not committed any offence as alleged against him. He read-over the contents of the statement recorded under Section 164 of CrPC of the prosecutrix to support his statement. He submits that the charge-sheet filed and the applicant is in jail since 31.10.2020. Other co-accused were enlarged on bail.
4. Mr. B.P. Banjare, learned counsel representing the State, while opposing the submissions made by learned counsel for the applicant submits that the allegations levelled against the present applicant are serious in nature, hence, he may not be enlarged on bail. Learned counsel read-over the contents of F.I.R. and also read-over the contents of statement recorded under Section 164 of CrPC of the prosecutrix.
5. I have heard learned counsel for the respective parties.

6. Taking into consideration the nature of allegations, statement recorded under Section 164 of CrPC of prosecutrix and further the pre-trial detention of the applicant, without commenting anything on merits, I am inclined to enlarge the applicant on bail.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge