

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1274 of 2021**

- Kamdev Baghel S/o Shri Meghnath Baghel, Aged About 23 Years, R/o. Village - Khapari Kumhari, Police Outpost - Birejhar, Thana And Tahsil - Kurud, Civil And Revenue District - Dhamtari Chhattisgarh

---- Applicant (In jail)**Versus**

- The State Of Chhattisgarh, Through The Station House Officer, Police Outpost - Birejhar, Police Station - Kurud, District - Dhamtari Chhattisgarh

---- Respondent

For Applicant	: Shri Sunil Sahu, Advocate
For Respondent/State	: Shri Vaibhav Singh, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

05.07.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.42 of 2021 registered at Police Station -Police Outpost Birejhar, Kurud, District- Dhamtari, Chhattisgarh for the offence punishable under Section 376 of the IPC.
2. Case of the prosecution, in brief, is that prosecutrix lodged a complaint on 25.01.2021 stating therein that present applicant and prosecutrix are having love affair since 25.01.2018 and on the pretext of marriage, present applicant made physical relationship with her on number of occasions from 25.01.2018 till 25.01.2021. But thereafter, the applicant refused to marry her, on the basis of which she made a complaint against the applicant and instant crime was registered against him.
3. Shri Sunil Sahu, learned counsel for the applicant submits that applicant has not committed any offence as alleged. The complaint given by the

prosecutrix itself shows that they were having love affair since last more than three years. Prosecutrix is a major girl even in the year 2018. She made physical relationship with present applicant on her own will and thereby, she is a consenting party. Applicant is in jail since 30.01.2021, hence he may be enlarged on bail. Learned counsel further relied upon a judgment passed by Hon'ble Supreme Court in case of **Pramod Suryabhan Pawar vs The State Of Maharashtra**, (2019) 9 SCC 608.

4. Shri Vaibhav Singh, learned Panel Lawyer for the State opposing the submission made by learned counsel for the applicant submits that prosecutrix in her statement recorded under Section 164 CrPC had stated that the applicant has admitted before the Community meeting to marry her, but thereafter, he refused. Learned counsel further, read over the statement recorded under Section 164 CrPC and submits that present applicant is not entitled for grant of bail.

5. I have heard learned counsel for the parties.

6. Taking into consideration the nature of allegation levelled against the applicant, that the prosecutrix and present applicant were having love affair since 25.01.2018, which continued till 25.01.2021; on the date of lodging complaint, prosecutrix was aged about 22 years; and also considering the statement recorded under Section 164 CrPC with regard to making of physical relationship with the applicant, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant be released on regular bail upon furnishing a bail bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma