

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 515 of 2021

Deepak Kumar Salame S/o Shri Hemant Kumar Salame
Aged About 29 Years R/o Tikrapara, Sanjay Nagar, P.S.
Tikrapara, District Raipur Chhattisgarh. --- **Applicant**

Versus

State of Chhattisgarh through Police Station - Purani
Basti, District Raipur Chhattisgarh. --- **Respondent**

For the applicant : Mr. Pragalbha Sharma, Advocate.
For the State : Mr. Aditya Bharadwaj, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

05.08.2021

1. Apprehending arrest in connection with Crime No. 53/2021 of Police Station Purani Basti, Distt. Raipur (C.G) for the offences punishable u/ss 376, 376(2)(n) of IPC the applicant has filed this application u/s 438 of the Code of Criminal Procedure
2. As per the prosecution case, a report was made by the prosecutrix that between 20.02.2020 and 28.10.2020 the applicant used to commit sexual intercourse on the pretext of marriage and subsequently refused to marry on the ground that the family members of the applicant are not according their consent to the marriage.
3. Learned counsel for the applicant would submit that the prosecutrix is a major lady and there was consensual sexual relations, therefore, it cannot be termed as an offence rape. He would submit that the applicant was still willing to marry but for some reasons or the other,

the marriage could not take place as such the applicant may be admitted to anticipatory bail.

4. Per contra, learned State Counsel opposes the prayer. He read out the statement of prosecutrix, which would show that the family members of the applicant refused to marry the applicant and the prosecutrix herself has also withdrew the proposal of marriage, however, the applicant continued relations with her on the pretext that he will convince his family members and committed sexual intercourse on assurance of marriage and after enjoying sexual relations, he back stepped from the marriage on the ground that the family members are not according approval for marriage. Therefore, whether there has been promise to marry at the inception is not a matter of evidence.
5. Considering the nature of allegations, I am not inclined to allow this bail application. Accordingly, it is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**