

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 3543 of 2021**

- Jai Prakash S/o Gadai Say Aged About 20 Years R/o Village Bade Salhi Badkapara, Police Station Khadgawan, District Koriya Chhattisgarh

---- Applicant***Versus***

- State Of Chhattisgarh Through Arakshi Kendra, Khadgawan, District Koriya Chhattisgarh.

---- Respondent

 For Applicant : Shri Hemant Kumar Agrawal, Advocate
 For respondent/State : Shri Amit Kumar Verma, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****26.10.2021.**

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 09.01.2021 in connection with Crime No.08/2021 registered at Police Station Khadgawan, Distt. Koriya (C.G.), for the offence punishable under Sections 376 & 493 of the Indian Penal Code.

2. Brief facts of the case is that the victim/prosecutrix lodged report on 09.01.2021 that since 09.11.2020, the applicant has committed sexual intercourse with her on the pretext of marriage, but later on he denied to perform marriage with her. On a report lodged by the victim/prosecutrix, FIR under Sections 376 & 493 of IPC was filed against the applicant and after due investigation,

charge sheet under the above sections have been filed against the applicant which is pending before the trial Court.

3. Learned counsel for the applicant submits that the victim/prosecutrix is a grown up and educated lady. It is a matter of love affair between the applicant and the victim. The applicant has not committed the alleged offence of rape with the victim. He is in jail since 09.01.2021. Charge sheet has already been filed before the trial Court and conclusion of the trial will take long time, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State while opposing the bail application submits that the applicant has committed rape with the victim/prosecutrix on the pretext of marriage and later on he denied to perform marriage with her, therefore, there is a strong case against the applicant, hence, the bail application filed by the applicant be dismissed.

5. I have heard learned counsel for both parties and perused the case diary and the material available .

6. Considering the facts and circumstances of the case and especially the age of the victim/prosecutrix at the time of the incident and also the fact that charge sheet has already been filed, whether the consent of the victim/prosecutrix is free or under misconception of facts is a matter of evidence, I feel inclined to allow the bail application. Therefore, the application under Section 439 of the CrPC is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs.50,000/-

along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.

Certified copy as per rules.

Sd/-

(N.K. Chandravanshi)
JUDGE

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