

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4844 of 2021**

Jalesh Yadav S/o Nilkanth Yadav, Aged About 32 Years, R/o Village Dashrangpur, Tahsil and District Kawardha, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh through S.H.O. P.S. Bemetara, District Bemetara Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Vivek Sharma, Advocate

For Non-applicant/State : Ms. Shubha Shrivastava, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**25.10.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 11.04.2021 in connection with Crime No.235 of 2021 registered at Police Station Bemetara, District Bemetara for commission of offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 27.03.2021, applicant came to Bemetara at Nawagarh Chowk and took the prosecutrix along with him to Siddhi Mandir, Bemetara on his motorcycle. From there went to village Ninwa where applicant has committed forceful intercourse with her in agricultural field, on the pretext of marriage. Applicant left the complainant at Bemetara and went to his village Deshrangpur, District Kawardha. They were having chats on mobile phone for some period, but thereafter, applicant

stopped receiving phone calls of complainant and refused to marry her. Incident was reported to concerned Police Station, based upon which, aforementioned crime was registered against the applicant.

3. Mr. Vivek Sharma, learned counsel for the applicant would submit that allegation levelled against the applicant is absolutely false and baseless. They were having love affair between them. Prosecutrix with her own will have consented for physical relationship. After lodging of report, prosecutrix got married with some other person, which is also stated by prosecution witnesses examined before the trial Court including father of prosecutrix, hence, offence as alleged against the applicant would not be made out. It is contended that applicant is in jail since 11.04.2021, hence, he may be enlarged on regular bail.
4. Per contra, Ms. Shubha Shrivastava, learned Panel Lawyer for the State opposing the submissions made by learned counsel for the applicant, would submit that applicant has committed forceful intercourse with the prosecutrix on the pretext of marriage and read over the statement recorded under Section 161 and 164 of Cr.P.C. of prosecutrix in support of her contention.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, statement recorded of prosecutrix under Section 161 and 164 of Cr.P.C. wherein prosecutrix has stated that they were having talking terms on mobile phone prior to the date of incident, she accompanied the applicant on his motorcycle

and visited several places, prosecutrix is a major girl, pretrial detention of the applicant and charge sheet is filed, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.

7. 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/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He 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**