

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4843 of 2021**

- Anup Kumar Gupta, S/o Shri Premshankar Gupta, Aged About 25 Years, R/o Chhitauni, Tahsil Khadda, District Kushinagar U. P.

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

- State Of Chhattisgarh Through Police Station Sarkanda, Bilaspur District Bilaspur Chhattisgarh

---- Respondent

For Applicant	: Smt Fouzia Mirza, Sr Advocate with Shri KPS Gandhi, Advocate
For Respondent/State	: Shri BL Sahu, PL
For Objector/Complainant	: Shri Pawan Kashyap, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****16.12.2021**

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.576 of 2021 registered at Police Station Sarkanda, District- Bilaspur, Chhattisgarh for the offence punishable under Sections 376 and 509 B of the IPC and 67 of IT Act.

2. Case of the prosecution, in brief, is that, prosecutrix lodged a report on 17.05.2021 making allegations that applicant, who is known to family of prosecutrix and also residing with them in same house along with prosecutrix and her husband. In the month of January, 2020 applicant shown some obscene photographs of her mother and under threat that he will made viral those photographs, has committed forceful sexual intercourse with her. She under the threat of applicant surrendered herself to save her marriage. Applicant established physical relationship with her on several occasions and

when applicant was not at Bilaspur, he used to give video call to prosecutrix and asked her to commit some obscene acts, which also she did. Based on written report, FIR was registered against applicant and he was arrested on 27.05.2021.

3. Smt Fouzia Mirza, learned Senior Advocate for the applicant would submit that allegation of forceful sexual intercourse is absolutely false and baseless. Prosecutrix is a married lady aged about 25 years. Undisputedly, applicant is residing in same house along with prosecutrix and her husband. After marriage, mother of prosecutrix who was alone also came to Bilaspur and stayed for three months in the same house, where applicant was also residing with them. Mother of prosecutrix and applicant stayed in one separate room and at that relevant time, they developed physical relationship. She submits that after his arrest, dispute between complainant and applicant has been resolved and complainant/prosecutrix executed an affidavit stating therein that they resolved the dispute. Applicant is in jail since 27.05.2021, he may be released on regular bail.

4. Shri BL Sahu, learned State counsel opposing the submissions of learned counsel for the applicant, submits that applicant has committed serious offence of forceful sexual intercourse with prosecutrix under threat. He read over contents of FIR. Further, he does not dispute age of prosecutrix, period of about one year of physical relationship between prosecutrix and applicant, as it was mentioned in complaint of prosecutrix herself.

5. Shri Pawan Kashyap, learned counsel for objector/complainant submits that prosecutrix is having no objection in granting bail to applicant.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations, age of prosecutrix and further, period of relationship as alleged by prosecutrix in her complaint, contention of learned counsel for complainant and copy of affidavit executed by prosecutrix herself which was not disputed by learned counsel for the complainant, stating that they resolve the dispute, without commenting anything on merits of the case, I am inclined to enlarge applicant on regular bail.

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