

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4853 of 2021**

Om Prakash Nishad @ Pappu S/o Vishwanath Kenwat, Aged About 24 Years, R/o Village Khargahni, P. S. Shivarinarayan (wrongly mentioned as Shivarinarayani in impugned order), District Janjgir Champa Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Urla, District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Shobhit Koshta, 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 07.06.2021 in connection with Crime No.165 of 2021 registered at Police Station Urla, District Raipur C.G. for commission of offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that applicant and prosecutrix are working in the same factory premises i.e. Apollo Pipe Factory. They came in contact with each other, upon which, applicant has stated her that he like her and will perform marriage with her. He made physical relationship with prosecutrix on the pretext of marriage from 07.06.2019 upto 07.06.2021 and due to physical relationship between the applicant and prosecutrix, she became

pregnant and when she again asked the applicant to marry her, he refused. The incident was reported to the concerned police station. Based upon which aforementioned crime is registered against the applicant.

3. Mr. Shobhit Koshta, learned counsel for the applicant submits that prosecutrix is a major deserted lady, aged about 30 years. As per allegation, she is living along with her 14 years old child. She is well aware of the consequences of indulging into physical relationship. The relationship, if any, between applicant and prosecutrix would be consensual relationship, hence, no offence could be made out against the applicant. It is contended that applicant is in jail since 07.06.2021 and charge-sheet has also been filed, 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 there are specific allegation that applicant has made physical relationship with prosecutrix stating her that he will perform marriage with her. Prosecutrix became pregnant, and thereafter applicant refused to marry. In support of her contention, she read over the statement of prosecutrix recorded under Section 161 and 164 of Cr.P.C. However, she does not dispute the age and status of prosecutrix to be a deserted lady.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, age and status of prosecutrix and period of

relationship as alleged from 07.06.2019 till 07.06.2021, applicant is in jail since 07.06.2021, charge-sheet has already been 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