

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5879 of 2021**

- Fulsai Son Of Dakhalsai Aged About 20 Years Caste - Gond, R/o Village - Shardapur, Police Station - Chalgali, Tahsil- Wadrafnagar, District - Balrampur-Ramanujganj (Chhattisgarh)

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station- Ramkola, District- Surajpur (Chhattisgarh)

---- Respondent

For Applicant : Shri Rahul Mishra, Advocate

For Respondents/State : Shri Sidhdharth Dubey, Dy. GA

For Respondent/Objector : Shri Sushobhit Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****17/08/2021**

1. Heard.
2. This is the Second Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 21.12.2020 in connection with Crime No.25/2020 registered at Police Station Ramkola, District Surajpur (CG) for the offence punishable under Section 376 of Indian Penal Code.
3. The First Bail Application bearing M.Cr.C. No.2086 of 2021 was dismissed for want of prosecution on 07.07.2021.
4. As per the prosecution case, a report was lodged by the complainant/prosecutrix on 17.12.2020 that in between 13.04.2018 to 03.12.2020 the applicant committed sexual intercourse on the pretext of

marriage, thereafter, when the marriage was fixed and the cards were distributed, the applicant refused to marry and did not turn up on the date of marriage. Therefore, the report was lodged.

5. Learned counsel for the applicant submits that the prosecutrix is aged about 32 years and the applicant is aged about 20 years and there was a love affair in between two. He would further submit that subsequently when the marriage could not solemnized for some reason or the other, the report has been made and it would not constitute the offence of rape, therefore, the applicant may be released on bail.
6. Per contra, learned State counsel and the learned counsel for the objector oppose the prayer for grant of bail and read out the statement and would submit that on the false pretext of marriage sexual intercourse was committed, therefore, the applicant may not be enlarged on bail.
7. Considering the statement of the prosecutrix and the documents referred by the State, it appears after the date of marriage was fixed, cards were distributed & on the last moment, the applicant refused to marry. What was the intention to do so is a matter of evidence, therefore, taking into the way the offence has been committed, I am not inclined to release the applicant on bail.
8. Accordingly, the bail application is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu