

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5009 of 2021**

- Nitesh Kosare S/o Shri Sukh Sagar Aged About 22 Years R/o Village - Achholi, P.S. And Tahsil - Dongargarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through, Station House Officer, Police Station - Khairagarh, District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	: Shri Sunil Sahu, Advocate
For Respondent/State	: Ms M Asha, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

25.10.2021

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. 200 of 2021 registered at Police Station- Khairagarh, District-Rajnandgaon, Chhattisgarh for the offences punishable under Sections 376 (1), 376(2)(f) of IPC.
2. Case of the prosecution, in brief, is that applicant and prosecutrix were known to each other since last three years. Relationship developed between them only after prosecutrix received phone call from unknown number and thereafter, they started talking with each other. Applicant is also far relative of sister-in-law (*bhabhi*) of prosecutrix. In the month of November, 2020, applicant visited house of prosecutrix, at that time, there was no other family member at house. Applicant, on the pretext of marriage, made physical relationship with her. In the month of May, 2021, prosecutrix suffered some problem in her abdomen and upon examination, it revealed that she was carrying pregnancy. Prosecutrix approached to applicant for marrying her but

he refused to marry her. Thereafter, report was lodged before concerned Police Station, based upon which instant crime was registered against applicant.

3. Shri Sunil Sahu, learned counsel for the applicant submits that prosecutrix is a major girl, aged about 19 years on the date of accident. Applicant has not committed any offence as alleged against him. Even if allegation of making relationship is taken, then it is consensual relationship between applicant and prosecutrix. Applicant is in jail since 27.06.2021 and charge-sheet has already been filed. Hence, applicant may be enlarged on bail.

4. Ms M Asha, learned State counsel opposing the submissions of learned counsel for the applicants, submits that applicant committed forceful intercourse with prosecutrix in her house in absence of her family members on the pretext of marriage. When she became pregnant, and approached applicant, he refused to marry her. Applicant has committed offence as alleged against him. Learned State counsel read over statement of prosecutrix recorded under Section 164 of CrPC in support of her contention.

5. I have heard learned counsel for the parties.

6. Allegation as it appears in case diary is that prosecutrix and applicant are known to each other since last three years prior from the date of first incident ie of the month of November, 2020. Physical relation as alleged is of November, 2020 and report is lodged only when she became pregnant.

7. Taking into consideration nature of allegation levelled against present applicant as appearing in FIR, statement of prosecutrix recorded under Section 161 and 164 of CrPC, the fact that applicant is in jail since 27.06.2021 and charge-sheet has already been filed, without commenting anything on merits of the case, I am inclined to enlarge the applicant on 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:

1. Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
2. Applicant shall not in any manner, tamper with the prosecution witnesses.
3. 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