

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5198 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.579 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, complainant is a lady, aged about 43 years. She lodged written report in concerned Police Station on 18.05.2021 stating therein that after marriage of her daughter in 2018, she accompanied her to Bilaspur, where applicant was also residing with her daughter and son-in-law. Complainant and applicant were staying in one room, even sleeping in that room. During their stay, on one day applicant committed forceful sexual intercourse with her. On threat that he prepared video of the relationship, established physical relationship on several occasions. They

developed physical relationship and it continued till February, 2020. Thereafter, applicant used to make a video call and ask her to do obscene acts and also used to ask for obscene chat with her. Applicant developed physical relationship with her daughter also, under threat.

3. Smt Fouzia Mirza, learned Senior Advocate for the applicant would submit that if allegation as levelled against applicant may be taken as it is, *prima facie* it shows that she is a consenting party, as she is 43 years old lady. More so, when as per allegation of physical relationship was since 2018 till February 2020, report is lodged only on 18.05.2021. She also submits that prosecutrix also submitted an affidavit stating that there is compromise between the parties and applicant is in jail since 27.05.2021, hence 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 there are serious allegations against applicant. However, he does not dispute period of relationship between prosecutrix and applicant as also age of prosecutrix.

5. Shri Pawan Kashyap, learned counsel for objector/complainant would submit that complainant has no objection in granting bail to applicant and also does not dispute that complainant has executed an affidavit, stating therein that they entered into settlement.

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