

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5304 of 2021

- Awadh Bihari Yadav S/o Satyadev Yadav, Aged About 26 Years R/o Village - Mahkepi (Bhawanipur), Police Station Balrampur District - Balrampur - Ramanujganj Chhattisgarh. (Father Name Wrongly Stated Aa Ramdev In The Impugned Order)

---- Applicant (In jail)

Versus

- The State Of Chhattisgarh, Through Police Station - Balrampur, District - Balrampur - Ramanujganj Chhattisgarh

---- Respondent

For Applicant	: Shri AK Prasad, Advocate
For Respondent/State	: Shri Roshan Dubey, PL

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.82 of 2021 registered at Police Station Police Out Post- Ganeshmod, PS Balrampur District- Balrampur-Ramanujganj, Chhattisgarh for the offence punishable under Section 376(2)(n) of the IPC.

2. Case of the prosecution, in brief, is that, Prabhu Dey, brother of prosecutrix lodged a written report to concerned Police Station on 07.05.2021 stating therein that applicant has developed relationship with prosecutrix on the pretext of marriage since 25.06.2018, which continued till 24.05.2021 and thereafter, refused to marry her. Based on written report, aforementioned crime has been registered against applicant and he was arrested on 17.05.2021.

3. Shri AK Prasad, learned counsel for the applicant would submit that allegation levelled against applicant are absolutely false and fabricated. Applicant has not committed any offence as alleged against him. He submits that prosecutrix on the date of lodging FIR is, aged about 23 years. At the time of establishing alleged first physical relationship with prosecutrix in the month of June, 2018 also, she was major girl. Even if allegation is accepted, then also, it is consensual relationship and no offence would be made out against applicant. Applicant is in jail since 17.05.2021.

4. Shri Roshan Dubey, learned State counsel opposed the submissions of learned counsel for the applicant and submits that offence committed by applicant is serious one. He, on the pretext of marriage, established physical relationship with prosecutrix and thereafter, refused to marry her. Learned state counsel further submits that in statement of prosecutrix recorded under Section 164 of CrPC, she stated that she was having love affair with applicant and on the pretext of marriage, applicant has established physical relationship with her and she wants to reside with him.

5. At this stage, learned counsel for applicant would submit that looking to statement of prosecutrix recorded under Section 164 of CrPC, she was noticed and appeared through video conference on 11.11.2021 along with her brother. They raised strong objection in granting bail to applicant. Their statement is recorded in proceedings dated 11.11.2021.

6. I have heard learned counsel for the parties.

7. Taking into consideration facts and circumstances of the case, nature of allegations, prosecutrix and applicant were having love affair and on pretext of

marriage applicant established physical relationship with her, period of their relationship, and age of prosecutrix, 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

padma