

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5521 of 2021**

Narsingh Mandavi S/o Shri Dora Mandavi, Aged About 30 Years,
R/o Village Karanji, Dabdiguddapara, P. S. Parpa, District Bastar
Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, P. S. Parpa,
District Bastar Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Devershi Thakur, Advocate

For Non-applicant/State : Mr. Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****26.10.2021**

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 02.07.2021 in connection with Crime No.134 of 2021 registered at Police Station Parpa (wrongly mentioned as P.S. Faijarpur in order sheet), District Bastar, Chhattisgarh for commission of offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that prosecutrix has lodged a written report making allegations against the applicant that applicant took the prosecutrix in his house stating that he will keep her as his wife. After three months, applicant ousted the prosecutrix after assaulting her. Based on the written report, aforementioned crime was registered against the applicant.

3. Mr. Devershi Thakur, learned counsel for the applicant would submit that applicant and prosecutrix belongs to tribal community. Applicant has performed customary marriage and started living as husband and wife and after some time, dispute arose between the parties and prosecutrix returned back to her own house and thereafter, false report has been lodged. He also submits that prosecutrix is major lady, aged about 34 years and as per contents of complaint itself, prosecutrix and applicant resided in the house of applicant as husband and wife and therefore, alleged offence would not be made out against the applicant. Applicant is in jail since 02.07.2021, hence, he may be enlarged on regular bail.
4. Per contra, Mr. Gurudev I. Sharan, learned State counsel opposing the submissions made by learned counsel for the applicant, would submit that applicant took the prosecutrix in his house on the pretext of marriage. There is no material available in the case diary that there was customary marriage between the parties. The applicant enjoyed the relationship and thereafter ousted the complainant, hence, he is not entitled for the benefit under Section 439 of Cr.P.C.
5. However, learned State counsel does not dispute the fact stated by learned counsel for the applicant that prosecutrix is major lady, aged about 34 years.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, age of prosecutrix, contents of complaint,

pretrial detention of the applicant and charge sheet is filed, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.

8. 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