

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5634 of 2021**

- Lachchhim Kashyap, S/o Mahadev Kashyap, aged about 24 years, residing at village Chhote Devada Awaspara, Tahsil and P.S. Bastar, District Bastar (CG)

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh Through the Police Station Bastar, District Bastar (CG)

---- Non-applicant

For Applicant	:	Mr. Praveen K Tulsiyaan, Advocate
For Non-applicant	:	Mr. Ashish Gupta, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order On Board****26/10/2021**

1. This is first application under Section 439 of CrPC for grant of regular bail to applicant who is in custody since 2.6.2021 in connection with Crime No.42/2021 registered at Police Station Bastar, District Bastar (CG) for commission of offence under Sections 376 (2) (n), 313 & 109 of IPC.
2. Case of prosecution, in brief, is that on 1.6.2021 prosecutrix lodged written report against applicant in concerned police station stating therein that she and applicant were friends since childhood, which later on converted into a love affair. When prosecutrix has attained majority, applicant established physical relation with her for the first time in the month of January, 2019 and thereafter continued to establish physical relationship with her till 29.5.2021. As a result, she became

pregnant twice, but applicant got her pregnancy aborted on both occasions by administering her some medicine. When prosecutrix asked applicant to marry her, he refused. Initially, act of applicant was reported to village panchayat where applicant has undertaken to keep prosecutrix with him, but subsequently he refused. Based on written report, crime in question is registered against applicant.

3. Mr. Praveen K Tulsiyaan, learned counsel for applicant submits that from the allegations contained in written report it is clear that prosecutrix is a major girl and there was love affair between applicant and prosecutrix. They established physical relationship on 1.1.2019 which continued till 29.5.2021. During these period with their free will established physical relation. This shows that physical relationship between applicant and prosecutrix was consensual, hence offence alleged against applicant will not be made out. Applicant is aged about 24 years, he is in jail since 2.6.2021, hence he may be released on regular bail.
4. On the other hand, Mr. Ashish Gupta, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that there is specific allegation against applicant that he established physical relationship with prosecutrix between January, 2019 to 29.5.2021 on the pretext of marriage and thereafter refused to marry her. Hence, applicant is not entitled for grant of regular bail. In support of his contention, learned State Counsel read

out statement of prosecutrix recorded under Section 164 of CrPC.

5. I have heard learned counsel for parties.
6. Taking into consideration nature of allegations, period of relationship between prosecutrix and applicant; statement of prosecutrix recorded under Section 164 of CrPC, without commenting anything on merits of case, I am inclined to release applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to satisfaction of trial Court concerned on the conditions that;
 - he shall appear before trial Court concerned regularly on each & every date unless exempted from appearance.
 - he shall not, in any manner, tamper with the prosecution witnesses.
 - if 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

roshan/-