

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5958 of 2021**

- Rajesh Dhruve S/o Late Lakshmu Dhruve Aged About 28 Years Residing At Village Sitrawand Nadipara P.S. Bhanpuri, District- Bastar, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Bhanpuri, District- Bastar, Chhattisgarh

---- Respondent

For Applicant	: Shri PK Tulsyan, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**27.10.2021**

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.37 of 2021 registered at Police Station-Bhanpuri, District- Bastar, Chhattisgarh for the offence punishable under Section 376 of IPC.
2. Case of the prosecution, in brief, is that applicant used to visit house of prosecutrix for consuming sulfi drink and thereby they were knowing each other. They were also having talking terms on mobile phone. When applicant stated that he likes her and wants to marry her, prosecutrix stopped talking with him, upon which he threatened prosecutrix that he would commit suicide. Under the threat of applicant, she agreed to proposal of applicant and on 08.03.2021 in the night, when applicant called prosecutrix, she went out of her house and stayed along with him in Jondrabadi, on the bank of river, till 14.03.2021. During their stay, applicant committed forceful intercourse with her. On 14.03.2021, prosecutrix came back to her house and narrated the incident to her family members, and village meeting took place. In meeting applicant accepted that he will keep prosecutrix along with him. Family

members of prosecutrix and villagers sent prosecutrix with him and she resided with him till 17.03.2021. During that period also, he established physical relationship with her, and subsequently, he left prosecutrix. Thereafter, report was lodged by her, based upon which aforementioned crime is registered against applicant.

3. Shri PK Tulsyan, learned counsel for the applicant submits that applicant has not committed any offence as alleged against him. As per allegation levelled in FIR as well as in statement of prosecutrix recorded under Section 164 of CrPC, she herself stated that on the call of applicant she went out of her house in the night of 08.03.2021 and stayed along with applicant till 14.03.2021. It is alleged that during that period applicant established physical relationship with complainant. Physical relationship if any, between applicant and prosecutrix would be consensual relationship. Applicant is in jail since 21.06.21, hence he may be enlarged on regular bail.

4. Shri Vinod Tekam, learned State counsel opposing the submissions of learned counsel for the applicant, submits that applicant committed forceful intercourse with prosecutrix on the pretext of marriage. Applicant even before village meeting, has accepted that he will keep prosecutrix along with him but within two days, left her. Hence, applicant is not entitled for grant of bail under Section 439 of CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations levelled against applicant, statement of prosecutrix recorded under Section 164 of CrPC,

without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. 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