

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6003 of 2021**

- Ishwar Lal Dewangan, S/o Shri Nandu Lal Dewangan, aged about 38 years, R/o Village Kaldabri, Police Station Ghumka, Tehsil & District Rajnandgaon (CG)

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

- State of Chhattisgarh, through the O.P. Chikhali, Police Station City Kotwali, Rajnandgaon, District Rajnandgaon (CG)

....Non-applicant

For Applicant : Mr. S.S. Baghel, Advocate.

For Non-applicant : Mr. Ashish Gupta, Panel Lawyer.

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****27.10.2021**

1. This is first application under Section 439 of CrPC for grant of regular bail to applicant who is in custody since 2.8.2021 in connection with Crime No.452/21 registered at Police Station O.P. Chikhali, City Kotwali, Rajnandgaon (CG) for commission of offence under Sections 384, 376, 376 (2) (n) of IPC.
2. Case of prosecution, in brief, is that on 1.8.2021 prosecutrix lodged written report in concerned police station stating therein that she came into contact with applicant in the year 2008 in a marriage ceremony and since then she was known to applicant. She got married with one Kuldeep Dewangan in the year 2010 and started residing with him in village Shankarpur. On 28.3.2017 applicant came to house of prosecutrix in absence of her husband and under threat that he will show her photographs available in his mobile to her husband, established physical relationship, which continued till

17.11.2020. Applicant has established physical relation with prosecutrix on number of occasions and also taken money from her .e. Rs.5 Lakh. When incident came to knowledge of husband of prosecutrix, she came to lodge report. Based on written report, aforementioned crime is registered against applicant.

3. Mr. S.S. Baghel, learned counsel for applicant submits that applicant has not committed any offence as alleged against him. From the contents of written report itself it is apparent that physical relationship between applicant and prosecutrix was consensual. Report was lodged only when relationship between applicant and prosecutrix came to the knowledge of husband of prosecutrix. In order to implicate applicant in graver offence, allegation of demand of money under threat has also been levelled. Applicant is in jail since 2.8.2021, 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 in written report there are specific allegations of extortion of money and committing sexual intercourse with prosecutrix under threat. There are material showing involvement of applicant in commission of crime in question, hence, applicant is not entitled for grant of regular bail. In support of his contention, learned State Counsel read over contents of written report.

5. I have heard learned counsel for parties.
6. Taking into consideration nature of allegations, period of physical relationship between prosecutrix and applicant i.e. from 28.3.2017 to 7.11.2020, and contents of written report, 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/