

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No.6168 of 2021

- Dhiraj Singh, S/o Sashish Singh, aged about 24 years, R/o village-Badkimahari, P.S. Balrampur, Distt. Balrampur Ramanujganj (CG)
---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Balrampur, Distt. Balrampur Ramanujganj (CG).
....Non-applicant

For Applicant :	Mr. A.N. Pandey, Advocate.
For Non-applicant :	Mr. Uddhav Sharma, Govt. Advocate

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

28.10.2021

1. This is first application under Section 439 of CrPC for grant of regular bail to applicant who is in custody since 29.5.2021 in connection with Crime No.100/21 registered at Police Station Balrampur, District Balrampur Ramanujganj (CG) for commission of offence under Section 376 (2) (n) of the IPC.
2. Case of prosecution, in brief, is that on 28.5.2021 prosecutrix lodged written report mentioning therein that on the pretext of marriage, applicant has committed sexual intercourse with her from 17.11.2020 to 12.5.2021 and thereafter he refused to marry her. Based on written report, aforementioned crime is registered against applicant.
3. Mr. A.N. Pandey, learned counsel for applicant submits that applicant has not committed any offence as alleged against him. Prosecutrix is major girl aged about 24 years and applicant is also 24 years old. Prosecutrix with her own consent started living with applicant. Relationship, if any as alleged in FIR, would be consensual relationship between two, hence offence as alleged against applicant under Section 376 of IPC would not be made out. Applicant is in jail since

29.5.2021, hence, he may be released on regular bail.

4. On the other hand, Mr. Kapil Maini, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that applicant cheating the prosecutrix that he will marry her established physical relationship with her which he continued for long time i.e. from 17.11.2020 to 12.5.2021, hence applicant has committed offence alleged against him and he is not entitled for benefit of regular bail.
5. I have heard learned counsel for parties.
6. Taking into consideration nature of allegations, age of prosecutrix; statement of prosecutrix recorded under Section 161 of CrPC wherein it is mentioned that prosecutrix and applicant resided together in one accommodation for considerable time, 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/