

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6385 of 2021**

Ravi Shankar Markam S/o Late Dhanaji Markam, Aged About 22 Years, Residing at Village Kumharbadgaon, P.S. Farasgaon, District Kondagaon, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through the Police Station Farasgaon, District Kondagaon, Chhattisgarh.

---- Non-applicant

 For Applicant : Mr. Pravin Kumar Tulsyan, Advocate
 For Non-applicant/State : Mr. Aditya Tiwari, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****01.11.2021**

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 23.07.2021 in connection with Crime No.63 of 2021 registered at Police Station Farasgaon, District Kondagaon for commission of offence punishable under Section 376 (2) (n) of I.P.C.
2. Case of the prosecution, in brief, is that a written report was lodged on 22.07.2021 stating therein that applicant gave call on her mobile phone 2-3 times in the year 2018. Complainant talked her and thereafter, they developed friendly relationship between them. Both of them visited house of each other and stayed there also. In the month of March 2020, applicant called prosecutrix stating that they will go to attend marriage ceremony. When prosecutrix joined him, applicant took her to forest area and

committed forceful intercourse with her, thereafter, applicant established physical relationship on several occasions in forest, due to which, prosecutrix became pregnant. When her pregnancy brought to the notice of applicant, he stopped meeting and talking her. This was brought to the notice of village *Panchayat* and as per decision of village *Panchayat*, applicant took prosecutrix in his house, but he was not talking with prosecutrix and also not treating her properly, due to which, she returned back to her house and lodged report, based upon which, aforementioned crime was lodged against the applicant.

3. Mr. Pravin Kumar Tulsyan, learned counsel for the applicant would submit that false and baseless allegations have been levelled against the applicant. He has not committed any offence as alleged against him. Prosecutrix is major girl, aged about 21 years. They were having friendly relationship since 2018 and as per contents of First Information Report itself, applicant and prosecutrix were having physical relationship since March 2020 till June 2021. It is contented that applicant is in jail since 23.07.2021, hence, he may be enlarged on regular bail.
4. Per contra, Mr. Aditya Tiwari learned Panel Lawyer for the State opposing the submissions made by learned counsel for the applicant, would submit that applicant established physical relationship with prosecutrix and when prosecutrix became pregnant, he left her. In MLC report, it is mentioned that prosecutrix is carrying pregnancy of 7 months, hence, applicant is not entitled for the benefit under Section 439 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of the case, nature of allegations, contents of complaint, statement of prosecutrix recorded under Sections 161 and 164 of Cr.P.C. and period of their physical relationship, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
7. 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