

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 7673 of 2021

Rohit Sanven Son of Dibakar Sanven Aged About 25 Years Caste - Dom,
 Resident of Kantabahal, Police Station- Talsara, District- Sundergarh (Odisha).

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station-
 Patthalgaon, District- Jashpur (Chhattisgarh).

--- Respondent

For Applicant	: Mr. Sanjay Agrawal, Advocate.
For State	: Ms. Seema Dixit, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

21/12/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicant, who has been arrested in connection with Crime No.119/2021, registered at PS - Patthalgaon, District- Jashpur, (C.G.), for commission of offence punishable under Section 376 of IPC.
2. Case of prosecution is that on 11.06.2021 prosecutrix lodged written report mentioning therein that applicant initially developed friendship with her. Thereafter on the pretext of marriage, he committed sexual intercourse with her on 05.07.2017 which continued till 08.01.2019. Subsequently, applicant started quarreling with her and refused to marry her. Based on report, aforementioned crime was registered against applicant, he was arrested on 26.08.2021.
3. Learned counsel for applicant submits that applicant has been falsely implicated in this case. As per contents of complaint and statement of prosecutrix recorded under Section 164 of Cr.P.C, there was love affair between applicant and prosecutrix. On the date of alleged first intercourse ie on 05.07.2017 prosecutrix was a major girl. Even if allegation alleged against applicant is taken on its face value then also prosecutrix prima facie is appearing to be consenting party. Hence, alleged offence would not be made out. Applicant is in jail since 26.08.2021. Hence, he may be released on regular bail.

4. Learned State Counsel opposes the submissions of learned counsel for applicant and submits that applicant on the pretext of marriage committed sexual intercourse with prosecutrix since 05.07.2017 till 08.01.2019. Upon refusal of applicant for performing marriage with prosecutrix, meeting was organized between their family members wherein father of applicant consented applicant's marriage with prosecutrix, but it is applicant who refused to marry her. On asking with regard to date of birth of prosecutrix, it is submitted that birth of prosecutrix as mentioned in FIR is of 1998.
5. Hence, he is not entitled for grant of bail.
6. Heard learned counsel for the parties.
7. Considering the entire facts and circumstances of case, nature of allegation, submissions of learned counsel for parties, age of prosecutrix, period of relationship and period of detention of applicant since 26.08.2021, without commenting anything on merits of the case, I am inclined to allow this application.
8. Accordingly, bail application is allowed. It is directed that applicants shall be released on regular bail, on their furnishing a bail bond in sum of **Rs.25,000/-** with one surety in like sum to satisfaction of concerned Court on the conditions that-
 - a) Applicant shall appear before Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.
 - c) If he is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-