

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No.7505 of 2021

- Mahadeep Sai Paikra, son of Bharat Sai Paikra, aged about 23 years, Caste- Kanwar, R/o Abira, Tahsil Farsabahar, District Jashpur (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station- Tapkara, District Jashpur (CG).

....Non-applicant

For Applicant	:	Mr. J.K. Saxena, Advocate
For Non-applicant	:	Mr. Roshan Dubey, Panel Lawyer.

Hon'ble Mr. Justice Parth Prateem Sahu

30.11.2021

1. This is first application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as applicant is in custody since 15.4.2021 in connection with Crime No.7/2021 registered at Police Station Tapkara, District Jashpur (CG) for commission of offence punishable under Sections 376, 376 (2) (n), 313 of IPC.
2. Case of the prosecution, in brief, is that on 10.1.2021 prosecutrix lodged report in concerned police station making allegation that in the year 2016 applicant established physical relations with her on false pretext of marriage and thereafter he continued making physical relationship till 17.11.2020. When she became pregnant, applicant got her pregnancy aborted and thereafter left her. Based on the report, aforementioned crime is registered against applicant and he was arrested on 15.4.2021.
3. Mr. Jitendra Kumar Saxena, learned counsel for applicant would submit that applicant and prosecutrix were having friendly relationship. Even in the year 2016 prosecutrix was major girl aged about 20 years. Prosecutrix established physical relationship with applicant with her own free will, therefore, she did not disclose fact of physical relationship between them to anyone till 10.1.2021. Applicant and prosecutrix remained in relationship for about more than four

years, hence offence as alleged against applicant would not be made out. Applicant is in jail since 15.4.2021, hence he may be enlarged on regular bail.

4. On the other hand, Mr. Roshan Dubey, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that applicant established physical relationship with prosecutrix on false pretext of marriage. When prosecutrix became pregnant, applicant got her pregnancy aborted and thereafter left her. In support of his contentions, he readout statement of prosecutrix recorded under Sections 161 & 164 of CrPC.
5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of case, nature of allegations; the fact that relationship between applicant and prosecutrix continued for about four years; prosecutrix resided with applicant in Jashpur (CG) and Noida (UP) for considerable period; even in the year 2016 prosecutrix was about 20 years old, as stated by learned State Counsel, applicant is in jail since 15.4.2021, without commenting anything on merits of case, I am inclined to grant regular bail to applicant.
7. Accordingly, bail 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;
 - a) he shall appear before the trial Court concerned regularly on each & every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) 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/-