

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8038 of 2020**

- Jyotish Kumar Sahu S/o Ratan Lal Sahu Aged About 29 Years R/o Village Tarenga, Block Bhatapara, District Baloda Bazar-Bhatapara Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The District Magistrate, Bilaspur District Bilaspur Chhattisgarh

---- Respondent

For Applicant	:	Shri Ravindra Agrawal, Advocate
For State	:	Shri Mateen Siddiqui, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/01/2021**

Heard.

1. The applicant has been arrested in connection with Crime No.29/2020 registered at Police Station – Mahila Thana, District – Bilaspur (C.G.) for alleged commission of offences under Section 376 of IPC.
2. Prosecution case is that the applicant kept on sexually exploiting the prosecutrix on false pretext of marriage ever since 2014 but refused to marry the prosecutrix and thus, committed rape on her.
3. Learned counsel for the applicant would argue that in the present case, even according to the version of the prosecutrix in the FIR and statement under Section 161 CrPC, the applicant and the prosecutrix had a long drawn relationship and since the marriage could not materialize, it cannot be said that the applicant sexually exploited her on false pretext of marriage. It is further submitted that a different story has been narrated by the prosecutrix in her 164 CrPC statement which is not found in the FIR and 161 CrPC statement, which shows that the applicant has been falsely implicated when the marriage could not materialize.

4. On the other hand, learned State counsel opposes prayer and submits that consent, if any, given by the prosecutrix for sexual intercourse, was only on the assurance that the applicant would marry her, therefore, a *prima facie* case of sexual exploitation on false pretext of marriage is made out and it cannot be said to be a case of free consent.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that FIR has been lodged after about 6 years of long standing relationship between the applicant and the prosecutrix and the prosecutrix has come out with different version in the FIR and 161 CrPC statement on one side and 164 CrPC statement on the other side and that investigation is complete, charge sheet has been filed and the applicant is in jail since 20/10/2020, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the Trial Court on the condition that -

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) He shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge