

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8238 of 2021

Nishant Meshram S/o Late Lalan Meshram Aged About 42 Years R/o Mahatma Gandhi Ward No. -01, Kondagaon, District- Kondagaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station -Aambada, District-North Bastar Kanker Chhattisgarh.

---- Respondent

For Applicant : Shri Sandeep Yadav, Advocate

For Non-applicant : Shri Anil Tripathi, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

09/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.09/2021 registered at Police Station- Aamabeda, District-North Bastar Kanker (C.G.) for the offence punishable under Sections 376 (2) (n), 294, 323, 506 of IPC.
2. Case of prosecution is that the applicant is working as Principal of Sanskriti Indian Public School. Prosecutrix is also working as Teacher in the same school. On 20.3.2014, after the school time, prosecutrix was called by applicant in his house for some work. When prosecutrix went to his house, applicant committed forceful

sexual intercourse with her and has threatened not to tell about the incident to anyone. Thereafter, on several occasions, applicant established physical relationship with prosecutrix under the threat of her life and her family member. On 25.9.2021, prosecutrix left her mobile phone, purse and key of vehicle in office table. When she went there to bring those articles back, applicant possessed those articles and took the prosecutrix forcefully in his house and thereafter committed sexual intercourse with her. The incident was reported by prosecutrix to the concerned police station by way of filing written report on 28.9.2021 and applicant was arrested.

3. Shri Sandeep Yadav, learned counsel for the applicant would submit that prosecutrix is a major lady aged about 30 years. From the allegation levelled by the prosecutrix, even if it is accepted as it is, then also prima facie, it appears that prosecutrix is a consenting party and she developed physical relation with the applicant with her own freewill. Due to some dispute, subsequently, prosecutrix has lodged report. Hence, the offence as alleged against the applicant would not be attracted. Applicant is in jail since 29.9.2021, hence, he may be enlarged on bail.
4. Shri Anil Tripathi, learned counsel for the State opposes the submission of learned counsel for the applicant and would submit that from the contents of report and statement of prosecutrix recorded under Sections 161 and 164 of Cr.P.C., it appears that even for the first time the applicant has committed forceful sexual intercourse with her and on the last day also, applicant forcefully took prosecutrix in his house and committed sexual intercourse with

her. Hence, there is prima facie involvement of the applicant in commission of crime.

5. I have heard learned counsel for the parties.
6. Having regard to the facts and circumstances of the case, nature of allegations, the period from which the allegation is made against applicant of committing sexual intercourse with prosecutrix, prosecutrix being major lady aged 30 years working as Teacher, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon his furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that:-
 - a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
 - b) Applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant 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