

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8209 of 2021

- Pawan Sai Singh S/o Late Shivprasad Singh, Aged About 36 Years R/o Village Jarhadih, Police Chowki - Raghunathpur, Police Station - Lundra, District Surguja Chhattisgarh

---- Applicant (In jail)

Versus

- State Of Chhattisgarh Through - Police Chowki - Raghunathpur, Police Station - Lundra, District Surguja Chhattisgarh

---- Respondent

For Applicant : Shri Amarnath Pandey, Advocate
For Respondent/State : Shri Ankur Kashyap, PL

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

08.12.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.154 of 2021 registered at Police Station- Lundra, District-Surguja, Chhattisgarh for the offence punishable under Section 376(2)(n) of the IPC.

2. Case of the prosecution, in brief, is that, prosecutrix lodged a written report on 03.10.2021 stating therein that applicant established physical relationship with prosecutrix on 20.10.2020, and thereafter, on number of occasions. During their relationship, prosecutrix got married with some other person. After her marriage also applicant pressurised her to come back to his house, upon which she returned back to her parents' house and he again started making relationship with her. Subsequently, applicant got married which was objected by prosecutrix and stated that she will not continue their relationship with him. After some time, applicant

contacted her and started making relationship with her. During this period, prosecutrix conceived twice upon which applicant gave some medicine, by which pregnancy got aborted. Prosecutrix again conceived which was informed to applicant and he again gave some medicine to her, but her pregnancy could not be aborted and she delivered a child on 22.07.2021. Applicant refused to accept prosecutrix and her child.

3. Shri Amarnath Pandey, learned counsel for the applicant would submit that age of prosecutrix is shown to be 21 years on the date of filing of complaint on 03.10.2021. Even if allegations as mentioned in FIR are taken as it is, relationship of applicant and prosecutrix started on 20.10.2020, and then also she was major. From the contents of FIR. As well as statement of prosecutrix recorded under Section 161 of CrPC, she is a consenting party, hence, offence under Section 376 as alleged against applicant would not be attracted. Applicant was arrested on 07.10.2021, hence he may be released on regular bail.

4. Shri Ankur Kashyap, learned State counsel opposing the submissions of learned counsel for the applicants, submits that prosecutrix and applicant developed relationship with prosecutrix on the pretext of marriage, but subsequently, he refused to marry her, hence applicant committed offence as alleged against him and cannot be released on regular bail.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations against applicant, facts and circumstances of the case; particularly the fact that prosecutrix

even after her marriage, continued relationship with applicant, she even left her matrimonial home and came back to her parents' house, applicant got married with some other girl but even then, prosecutrix continued relationship with him, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition 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 future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE