

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9045 of 2020**

- Sanjay Kumar Paikara, S/o Virendra Paikara, aged about 26 Years, R/o Kurraha, Thana Kasdol, Balodabazar, District Balodabazar Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Police Station Kasdol, District Balodabazar Chhattisgarh.

---- Non-applicant

For Applicant
For State

Shri Sameer Singh, Advocate.
Shri C.B. Kesharwani, P.L.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****21/01/2021**

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 17.11.2020 in connection with Crime No.06/2019 registered at Police Station Kasdol, District Balodabazar, C.G. for the offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 04.01.2019 the prosecutrix lodged a report to the effect that she is 19 years of age and that after coming in contact with the applicant about a year prior to the date of incident, they were talking with each other on mobile. On the date of incident i.e.

17.08.2018, the applicant had forcible sexual intercourse with her on the pretext of marrying her as a result of which she got pregnant by 6-7 months. In the social meeting, the applicant accepted his mistake and kept the prosecutrix as his wife in his home but after about 15 days he ran away from his home.

3. Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He also submits that there was love affair between the applicant and the prosecutrix and that she was a consenting party, no offence has been committed by the applicant and that compromise has already been taken place between the parties vide agreement dated 21st October, 2019 filed herewith. He is in custody since 17.11.2020 and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. Heard learned counsel for the parties and perused the case diary.
6. Looking to the facts and circumstances of the case, the age of the prosecutrix i.e. 19 years, the nature of allegation against the applicant that on the pretext of marriage he

established physical relations with the prosecutrix as a result of which she got pregnant by 6-7 months and thereafter left her, the fact that agreement between the parties has not been proved by the prosecutrix either before the trial Court or by appearing before this Court, the applicant's counsel has also not produced the prosecutrix before this Court for substantiating the said agreement, without commenting anything on merits of the case, I am not inclined to release the applicant on bail.

7. Accordingly, the bail application stands dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh