

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3075 of 2018

Premnarayan Nirmalkar, S/o. Radheshyam Nirmalkar, Aged About 28 Years, R/o. Village Chhati, (Bhathapara), Police Station Kurud, District Dhamtari, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Of Police Station Kurud, District Dhamtari, Chhattisgarh

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

30.05.2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.80/2018 registered at Police Station- Kurud, District Dhamtari (C.G.) for the offence punishable under Sections 376 of Indian Penal Code.
2. Case of the prosecution is that the applicant on the false pretext of marriage maintained love affair and committed sexual intercourse with the prosecutrix and thereby committed rape.
3. Learned counsel for the applicant submits that even if the entire allegation of fact as stated in the FIR are taken as true, no ingredients for commission of offence under Section 376 of I.P.C. is made out. He further submits that the investigation is complete and charge sheet has been filed; therefore, the applicant may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail and submits that though the prosecutrix was having love affair and sexual intercourse with the applicant for five years,

it was on the false pretext of marriage given by the applicant and when she came to know that the applicant is conducting marriage with another girl, the report was made.

5. Taking into consideration the submission made by the counsel for the parties, particularly taking into consideration the contents of the FIR in which the prosecutrix has stated that she was having love affair and physical relation with the applicant for more than five years and report was lodged by her when she came to know that the applicant is going to be engaged with some other girl and further considering the fact that the prosecutrix is major, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with two local sureties in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Manindra Mohan Shrivastava)
Vacation Judge