

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5516 of 2020**

- Gajanand Sen s/o Chandrahas Sen aged about 26 Years R/o- Village- Chhota Nawapara, District Raipur, Chhattisgarh ---- **Applicant**

Versus

- State of Chhattisgarh through the Station House Officer, Police Station- Magarlod, District- Dhamtari, Chhattisgarh ---- **Respondent**

For Applicant	:	Mr. Shivendu Pandya, Advocate.
For State	:	Mr. Rakesh Sahu, Deputy Govt. Advocate

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****24-11-2020**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as he is in jail since 3-4-2020 in connection with Crime No 63 of 2020 registered at Police Station Magarlod, District Dhamtari (CG) for the offence punishable under Sections 376, 450 and 506 of IPC.
2. The case of the prosecution is that the prosecutrix lodged the written complaint against the applicant in Police Station Magarlod, District Dhamtari (CG) on 31-3-2020 stating that on 12-3-2020 she came to village Bhismundi for attending the marriage function and when she was sleeping in the house of Ghasiram Sen, at about 10.00 pm, the applicant entered into her room and committed sexual intercourse with her against her will and thereby the applicant has committed the aforesaid offence.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that there is a delay of 19 days in lodging the report. Even she did not disclose about the incident to her husband on the same day when the alleged incident took place. As per written complaint of the prosecutrix, the alleged incident took place on 12-3-2020 whereas the report was lodged on 31-3-2020 i.e., after 19 days of the incident.. No plausible explanation has been offered by the prosecution for the delay which appears that the whole prosecution case is false and fabricated. He would further submit that neither medical evidence nor the witnesses have supported the case of prosecution. It is further submitted that no incriminating evidence is adduced by the prosecution to prove the prosecution case. He would further submit that no criminal antecedents have been reported against the applicant, charge sheet has been filed in this case, the applicant is in custody since 3-4-2020 and trial is likely to take some time for its disposal, therefore, the applicant be released on by this Court.
4. On the other hand, learned counsel for the respondent/State opposes the bail application.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and further considering the inordinate delay in lodging the report and also the fact that the incident happened on 12-3-2020 in the house of one Ghasiram Sen wherein marriage ceremony was performed and

prosecutrix was sleeping but nobody reached to the place of incident and she did not make any hue and cry and even the medical evidence does not support the case of prosecution and further considering the detention period of the applicant, charge sheet is filed, conclusion of trial may take some time and without further comments on the merits of the case, I am of the opinion that it is a fit case to grant the bail to the applicant.

6. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.50,000/- with two solvent sureties for the like amount to the satisfaction of the concerned trial Court. He shall appear before the trial Court on each and every date given by the said trial court, till disposal of the trial.

Sd/-

(Gautam Chourdiya)
Judge

Raju