

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 519 of 2021**

- Jitendra Tandi @ Jitendra Jagat, S/o Shri Tulsi Jagat, aged about 30 Years, R/o Present Resident - Through Gadadhar Jagat, Kanshiram Nagar, Police Station - Telibandha, District Raipur, Chhattisgarh.

Permanent Resident of Village Dargaon, Police Station Boden, District Nuapda, Odisha.

---Applicant

Versus

- State Of Chhattisgarh Through District Magistrate Durg, Chhattisgarh., District : Durg, Chhattisgarh

----Non-applicant

For Applicant	Shri Badruddin Khan, Advocate.
For State	Shri Sudhir Sahu, P.L.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****16/03/2021**

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.109/2020 registered at Police Station Saraswati Nagar, District Raipur, C.G. for the offence punishable under Section 376(2)(n) of Indian Penal Code.
2. Allegation against the applicant by the prosecutrix is that on the pretext of marrying her, applicant committed sexual intercourse with her. She also alleged that she was having love affair with the applicant for the last three years prior to lodging of the FIR

i.e. 31.08.2020 and applicant continuously made physical relations with her. When she got pregnant, applicant refused to marry her and left her. On report to the above effect being lodged by the prosecutrix, offence under the aforesaid section was registered against the applicant.

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, who is a major girl of 20-22 years, and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 19.10.2020 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. From the material available in the case diary, it is seen that the applicant and the prosecutrix were having love affair prior to lodging of the FIR and there had been physical relations between them on number of occasions and this fact is also admitted by the prosecutrix in her statement recorded before the trial Court. Thus, considering the over all facts and circumstances of the case, the nature and quality of evidence collected so far by the prosecution, the age of the applicant i.e. 30 years as well as the

age of the prosecutrix i.e. 20-22 years, the fact that the applicant and prosecutrix were having affair for three years, the detention period of the applicant, charge sheet has already been filed, the fact that the applicant has no criminal antecedent and there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, without expressing any opinion on merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the applicant. Accordingly, the application is allowed. It is directed that in the event of applicant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- (iv) he shall not involve himself in any offence of similar nature in future.

Sd/-
Gautam Chourdiya
Judge

