

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 100 of 2021

1. Premlal Kerketta S/o Rajesh Kerketta, Aged About 33 Years, Occupation Service (Farmasist Grade-2), R/o Village Kumda Colony Quarter No. 217, P.S. Vishrampur, Tehsil And District Soorajpur (C.G.) Present R/o Thakurpur, P.S. Gandhinagar Ambikapur, District Surguja (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through S.H.O., P.S. Vishrampur, Tehsil And District Soorajpur (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Vijay Kumar Sahu, Advocate.
For Non-Applicant/State	:	Mr. Dinesh R.K. Tiwari, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

10/02/2021

- 1) This is the First Bail Application filed under Section 439 of Code of Criminal Procedure, 1973 by the applicant for grant of bail as he is in custody since 21/12/2020 in connection with Crime No. 155/2020 registered at Police Station Vishrampur, District Soorajpur (C.G.) for the offence under Sections 376 & 313 of IPC.
- 2) Case of the prosecution in brief is that the applicant and the prosecutrix were having love affair and on 20/07/2012 the applicant forcibly established physical relations with the prosecutrix on the pretext of marriage and thereafter repeated the said act on different occasions on the said pretext. In the month of July 2020 when the prosecutrix asked the applicant to marry her, he refuse to marry her. On 21/08/2020 a written report to this effect was lodged by the prosecutrix based on which FIR was registered against the applicant under Section 376 of IPC. During investigation it was found that the applicant by administering certain medicine caused abortion of the prosecutrix on which offence under Section 313 of

IPC was added.

- 3) Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He submits that the prosecutrix was having affair with the applicant since 2007 and she had physical relations with the applicant with her own consent on 20/07/2012 and FIR was lodged with a long delay of 8 years. He further submits that the applicant is in jail since 21/12/2020 and conclusion of the trial is likely to take some time. Therefore, the present applicant be released on bail.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the fact that the prosecutrix was having affair with the applicant since 2007 when she was 19 years of age, the applicant had first physical relation with the prosecutrix on 20/07/2012 on the pretext of marriage, FIR has been lodged on 21/08/2020 i.e. after 8 years of the incident, looking to her statement under Section 164 of Cr.P.C., there is nothing to show that the applicant caused abortion of the prosecutrix, the detention period of the applicant, there is no apprehension of the applicant tampering with the evidence or absconding and that the trial is likely to take some time for disposal, without commenting anything on merits of the case, 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 or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Court.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant