

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 291 of 2021

1. Shani @ Sanni Sidar Son Of Ramcharan Sidar, Aged About 23 Years, R/o Village Kali Mandir Chandan Talab Par Kharsia, Police Station And Tahsil Kharsia, District Raigarh (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station City Kotwali, Raigarh, District Raigarh (C.G.).

---- Non-Applicant

For Applicant	:	Ms. Soni Mishra with Mr. Rahul Agrawal appears on behalf of Mr. Sumit Singh Rathore, Advocates.
For Non-Applicant/State	:	Mr. B.L. Sahu, Panel Lawyer.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

18/02/2021

- 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 02/05/2020 in connection with Crime No. 335/2020 registered at Police Station City Kotwali, Raigarh, District Raigarh (C.G.) for the offence under Sections 376 & 506 of IPC.
- 2) Case of the prosecution, in brief is that on the date of incident i.e. 06/02/2020 when the applicant called the prosecutrix, a married lady of 32 years, for washing utensils in some function and when the prosecutrix went to attend the call of nature at night, the applicant entered the toilet and committed forcible sexual intercourse with her on the point of knife. On report being lodged to the above effect, offence has been 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 further submits that there is delay in lodging the FIR as the incident took place on 06/02/2020 whereas the FIR lodged on 01/05/2020 and no explanation for the said delay has been given by the prosecutrix. He submits that as per the statement of the prosecutrix under Section 164 of Cr.P.C. it is clear that the no sexual intercourse was committed by the applicant with the prosecutrix. He submits that the applicant is in jail since 02/05/2020, charge sheet has already been filed and trial is likely to take some time for its disposal. He also submits that the applicant has no criminal antecedent. Therefore, the present applicant be released on bail.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application. He submits that the applicant has no criminal antecedent.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the detention period of the applicant, the charge sheet has already been filed, in particular the statement of the prosecutrix under Section 164 of Cr.P.C. wherein she has stated that she has love affair with the applicant, she wants to live with him and she had physical relation with the applicant on her own free will, and the fact that the applicant has no criminal antecedent and there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel, and 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