

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 206 of 2021**

- Chandrashekhar Sahu, S/o Shri Saradhu Ram Sahu, aged about 40 Years, R/o- Sahu Para, Village Bhatagaon, Police Station- Purani Basti, District Raipur, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station- Purani Basti Raipur, District- Raipur, Chhattisgarh.

---Non-applicant

For Applicant
For State

Ms. Smita Jha, Advocate.
Mr. Sudhir Sahu, P.L.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

16/02/2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of bail as he has been arrested in connection with Crime No.316/2020 registered at Police Station Purani Basti, Raipur, District Raipur, C.G. for the offence punishable under Sections 376, 376(2)(n) and 506 of IPC.
2. Case of the prosecution, in brief, is that on 15.11.2020, prosecutrix lodged a complaint against the applicant alleging in it that on 05.11.2020 at around 11:30 pm applicant entered her house and established physical relations with her forcibly and threatened her not to disclose the incident to anyone. On 10.11.2020 at around 2:30 pm, applicant again entered her house and established physical relations with her against her will. Thereafter, prosecutrix

narrated the above incident to her husband and then she alongwith her husband went to the police station and lodged the complaint against the present applicant. On report being lodged to the above effect, the aforesaid offence has been registered against the present applicant.

3. Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. She submits that there was dispute between the present applicant and the husband of the prosecutrix with regard to payment of rent as the prosecutrix and her husband were living in the house of the applicant as tenant and they were not paying the rent on time. She submits that FIR has been lodged after an inordinate delay of 10 days. As per medical report, no sign of recent intercourse was seen. The applicant is in jail since 15.11.2020, charge sheet has already been filed 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. Considering the facts and circumstances of the case, the conduct of the prosecutrix, the detention period of the applicant, no proper explanation has been given by the prosecutrix regarding delay of 10 days in lodging the FIR, the fact that prosecutrix, a married lady, is living with her husband and children, neither medical report supports the statement of prosecutrix nor any neighbour heard the

hue and cry of prosecutrix and the fact that charge sheet has already been filed, in particular the fact that there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and that 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