

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 599 of 2021**

- Jons Xaviers Ekka @ Munna S/o - Rajaram Ekka Aged About 26 Years
Occupation Service, R/o - Village Bansajhal, Police Station and Tahsil
Batouli, District Surguja Chhattisgarh ---- **Applicant**

Versus

- State of Chhattisgarh through The Station House Officer, PS: Mahila
Thana, Ambikapur, District Surguja Chhattisgarh ---- **Non-applicant**

For Applicant : Mr. Jitendra Shrivastava, Advocate.

For State : Mrs. Subha Shrivastava, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****12-03-2021**

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 3-12-2020 in connection with Crime No. 48 of 2020 registered at Police Station Mahila Thana, Ambikapur, District Surguja (CG) for the offence punishable under Sections 376(2)(n) and 417 of IPC.
2. Case of the prosecution, in brief, is that on 3-12-2020 prosecutrix lodged a report against the applicant to the effect that in the year 2012 on the false pretext of marriage the applicant took her and committed sexual intercourse with her. Subsequently he was posted in Army and thereafter, the said act continued for a long period. When the applicant refused to marry the prosecutrix, she

lodged an FIR against him in Police Station. On the basis of the report lodged by the complainant, offence was registered against the applicant.

3. Learned counsel for the applicant submits that the 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 and that she was a consenting party. He also submit that the prosecutrix had lodged the FIR after inordinate delay of eight years and no proper explanation has been given by the prosecutrix regarding such delay in lodging the FIR. He further submits that the prosecutrix is major girl and she accompanied the applicant on her own free will. During the said period, prosecutrix has not disclosed the incident to anyone. He would further submit that charge sheet has been filed, applicant is in jail since 3-12-2020 and conclusion of the trial is likely to take some time for its final disposal, therefore he may be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Perusal of the case diary reveals that the prosecutrix is a major girl, the applicant and the prosecutrix were having love affair from 2012 to 2020 and there had been physical relations

between them on number of occasions and FIR was lodged on 3-12- 2020 when he refused to marry her.

7. Considering the over all facts and circumstances of the case, the nature and quality of evidence collected by the prosecution, conduct of the prosecutrix who is a well grown up lady, the detention period of the applicant 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 commenting anything on merits of the case, I am of the opinion that it is a fit case to grant bail to the applicant.
8. 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.1,00,000/- with two sureties of Rs. 50,000/- each 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. The applicant is being granted 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 this court.

Sd/-

(Gautam Chourdiya)
Judge

Raju