

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 342 of 2021

- Ajay Kodaku, Son of Shri Shatruhan Kodaku, aged about 24 years, Resident of Village Rajpalpur, Police Station Basna, Civil & Revenue District Mahasamund (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House Officer, Police Station Basna, Civil and Revenue District – Mahasamund (C.G.)

---- State/Non-applicant

For Applicant : Shri Sunil Verma, Advocate

For Non-Applicant/State : Ms. Ishwari, Ghritlahre, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

22.02.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 25.11.2019 in connection with Crime No. 535/2019 registered in Police Station- Basna, Civil & Revenue District Mahasamund (CG) for the offence punishable under Sections 354, 376/511, 323 & 294 of IPC.
2. Prosecution case in brief is that the present applicant is brother-in-law (*dewar*) of the prosecutrix. On 23.11.2019, the prosecutrix after taking dinner went to her room. When she was sleeping in her room alongwith her son, at about 11:30 pm, the applicant entered her room and was trying to outrage her modesty on which she raised alarm, the applicant used criminal force and used filthy language. On this account, the prosecutrix lodged the report on 24.11.2019 against the applicant for offence as mentioned above.
3. Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in the crime in question. He further submits that the prosecutrix resides alongwith her mother-in-law, father-in-law, brother-in-law, sister-in-law in the same house, but when the incident happened, they did not interfere. He also submits that the applicant is in jail

since 25.11.2019, charge-sheet has already been filed and conclusion of the trial is likely to take some time, therefore, the applicant be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application.
5. Considering the facts and circumstances of the case, the fact that on the date of incident the prosecutrix and her family members alongwith the applicant were living together in the same house, the age of the present applicant, his detention period more than 1 year, he is the first offender, he has no criminal antecedent as admitted by both the counsel and there is no apprehension of the applicant tampering with the evidence or absconding, charge-sheet has already been filed, conclusion of the trial is likely to take some time, without expressing any opinion on merits of the case, the bail application is allowed.
6. 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 Bench.

Sd/-
(Gautam Chourdiya)
Judge