

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 543 of 2021

- Pramod Diwaker, S/o Shri Daktar Diwaker, Aged About 21 Years, R/o Village Baihakampa, Thana- Lalpur, Tahsil and District- Mungeli, Chhattisgarh. **---- Applicant**

Versus

- State Of Chhattisgarh, Through: Station House Officer, Police Station Kawardha, District- Kabeerdham, Chhattisgarh.

---- Non-Applicant/State

For Applicant	: Shri Sunil Sahu, Advocate
For Non-Applicant/State	: Ku. Ishwari Ghritlahre, P.L.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

01.03.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 23.12.2020 in connection with Crime No. 739/2020, at Police Station-Kawardha, District- Kabirdham (C.G.) for the offence punishable under Section 294, 323, 506-B, 376 (2) (n) of I.P.C.
2. Case of the prosecution, in brief, is that the prosecutrix lodged a written report on 23.12.2020 to the effect that 7-8 months ago prior to the lodging the report, the applicant and the prosecutrix had love affair and on the pretext of marriage the applicant had physical relations with her for the last 4-5 months. However, the applicant subsequently refuse to marry her and also committed *marpit* with the prosecutrix. When the prosecutrix insisted upon the applicant for marry her, he abused her filthily and threatened her of killing.
3. Learned counsel for the applicant submits that the allegations

against the applicant are false and fabricated, he further submits that both the prosecutrix and the applicant are in love affair, whatever happened between them are consensual, they are living together as live in relation from 22.07.2020 to 19.12.2020 in the house of the applicant, As per Annexure A/2, on 22.07.2020 the applicant and the prosecutrix have executed consent letter in the presence of villagers and family members, in which the prosecutrix clearly stated that she has performed the marriage with the applicant, therefore, offence under Section 376 of IPC is not made out, due to some dispute they were living separately, the applicant/accused has no criminal antecedents, there is no likelihood of the applicant tempering with the prosecution evidence or absconding and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.

4. On the other hand, learned counsel for the Non-Applicant/State opposes prayer for grant of bail and submits that the applicant has no criminal antecedents.
5. Having considered the submission made by learned counsel for the parties, taking into consideration the fact that prosecutrix is a major lady, consent letter of the prosecutrix (Annexure A/2), both the applicant and the prosecutrix were living together in the house of the applicant for 4-5 months, detention period of the applicant, the fact that the applicant has no criminal antecedents, there is no likelihood of the applicant tempering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
6. It is directed that in the event of the applicant 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 be released on bail on following conditions:-

(a) 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.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) 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.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge

Nadim