

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 666 of 2021

- Ravi Kumar Gupta, S/o. Late Rajbahadur Gupta, Aged About 38 Years, R/o. Village Chitrakoot, Manjhgawan P.S. Manjhgawan, Tahsil and District- Satna (MP).

Presently Residing at: Bhatti Road, Ganesh Dada Gali, Ambikapur, P.S. and Tahsil: Ambikapur, District: Surguja (C.G.).

---- Applicant

Versus

- State Of Chhattisgarh, Through The Police Station Kotwali, Ambikapur, District- Surguja (C.G.). **---- Non-applicant**

For Applicant	: Mr. N.Naha Roy, Advocate
For Non-Applicant/State	: Mrs. Smriti Shrivastava, P.L.
For Complainant	: Ms. Sangeeta Soni, Advocate

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

08.03.2021

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 06.01.2021 in connection with Crime No.24/2021, at Police Station-Kotwali, Ambikapur, District- Surguja (C.G.) for the offence punishable under Section 376 (2) (n) of I.P.C.
2. Case of the prosecution, in brief, is that the prosecutrix was working as a maid in the house of the present applicant, the present applicant had told the prosecutrix that his wife has died and on the pretext of marriage he made forcible physical relation with the prosecutrix repeatedly.
3. Learned counsel for the applicant submits that the allegation against the applicant is false and fabricated, he submits that date

of incident is 31.05.2020 whereas the FIR was lodged on 06.01.2021, the prosecutrix and the present applicant were living together for seven to eight months, the prosecutrix was consenting party, she is well grown up married lady, her husband had left her and she is mother of two children. The applicant is in jail since 06.01.2021, the applicant/accused has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding, charge-sheet has already been filed, 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 prima-facie case is made out against the present applicant because he repeatedly made forcible physical relation with the prosecutrix on the pretext of marriage. However, applicant has no criminal antecedents.
5. Counsel for the complainant has raised objection to grant of bail to the present applicant.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the nature of allegation, particularly considering the fact that as per case diary statements of the children, sister of the prosecutrix and other witnesses there was love affair between the applicant and the prosecutrix both of them were living together for seven to eight months, the prosecutrix is a married lady of 32 years, delay in lodging of the report, written complaint was lodged by the prosecutrix against the wife of the present applicant on 02.01.2021 before the S.H.O. Police Station Ambikapur regarding applicant's wife forcibly entering her house, abusing her family members and threatened them, the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel, detention period of the applicant, conclusion of trial may take some time, without commenting anything on merits of the

case, the application is allowed.

7. It is directed that in the event of the 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 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