

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 876 of 2021

- Digeshwar Budek, Son of Raghu Budek, Caste Sawra, aged about 22 years, Resident of Village Jhaarwudela, Tahsil Basna, Police Station Basna, Civil and 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	:	Shri Sudhir Sahu, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J
Order on Board

15.03.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 05.10.2020 in connection with Crime No. 466/2020 registered in Police Station- Basna, District Mahasamund (CG) for the offence punishable under Sections 454 & 376 of IPC.
2. Case of the prosecution in brief is that 02.10.2020, F.I.R. was lodged by complainant stating that on 01.10.2020 when she was alone in her house, the applicant came there and committed sexual intercourse with her against her will. She also stated in the F.I.R. that even before the present incident, the report of molestation by the complainant against the applicant was lodged at Chowki Bhanwarpur.
3. Learned counsel for the applicant submits that the prosecutrix is a major lady of 26 years. He further submits that the incident happened on 01.10.2020 at about 10:00 am and the report was lodged on 02.10.2020 at 19:30 hours and applicant has been falsely implicated by the prosecutrix in this crime. He also submits that the applicant is languishing in jail since

05.10.2020, charge-sheet has 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 and submits that there is one criminal antecedent of the applicant i.e. Crime No. 419/2020 under Section 456 & 354 of IPC.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the age of the prosecutrix i.e. 26 years, a major lady at the time of incident, the incident happened on 01.10.2020 at about 10:00 am and she lodged the F.I.R. on 02.10.2020 at about 19:30 hours, her medical report, in particular the statement of the prosecutrix under Section 164 of Cr.P.C. as well as her deposition as PW-1 wherein she has denied the commission of rape with her by the applicant, and that the applicant, who is 22 years old, is in jail since 05.10.2020, the only criminal antecedent of the applicant which relates to crime under Section 456 & 354 of IPC was registered at the instance of the prosecutrix herein, the overall conduct of the prosecutrix, charge-sheet has already been filed, conclusion of the trial is likely to take some time, there is no apprehension of the applicant tampering with the evidence or absconding, 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

vatti