

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 1181 of 2021

- Rakesh Kumeti, S/o Late Jamlu Kumeti, Aged About 24 Years, R/o Village- Eknar, Police Station- Orchha, District- Narayanpur, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Mardapal District- Kondagaon, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri K.K. Pandey, Advocate
For Non-Applicant/State : Shri Adil Minhaj, Government Advocate

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

25.06.2021

- 1) Heard on admission.
- 2) The application is admitted for hearing.
- 3) With the consent of the parties, the matter is heard finally.
- 4) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 23.10.2020 in connection with Crime No.05/2019 registered at Police Station- Mardapal, District- Kondagaon (C.G.) for the offence punishable under Section 376 of IPC.
- 5) Case of the prosecution, in brief, is that after joining the Naxal Organization, the prosecutrix used to perform dance on '*Chetna Natak Manch*' and the applicant worked as *Santari* in the said organization, during this time, the applicant committed forcible sexual intercourse with the prosecutrix on the pretext of marriage.

- 6) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the charge-sheet has been filed, incident took place in the year 2017 whereas FIR was lodged after two years on 19th of March, 2019, the prosecutrix is major lady aged about 25 years, there is no likelihood of the applicant tampering with the prosecution evidence or absconding, the applicant is in jail since 23.10.2020 and trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.
- 7) On the other hand, learned counsel for the Non-Applciant/State opposes the bail application and submits that the applicant committed forcibly sexual intercourse with the prosecutrix on the pretext of marriage.
- 8) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, incident took place in the year 2017 whereas FIR was lodged in the year of 2019, there is inordinate delay in lodging of the FIR, the applicant and the prosecutrix are major, charge-sheet has already been filed, the detention period of the applicant, who is 24 years old, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and due to Covid-19 pandemic conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 9) 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 :-
 - (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 strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

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