

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1233 of 2021**

- Sanjay Shrivastava, S/o Late Shri Ramesh Kumar Shrivastava, aged about 48 Years, R/o 27 Kholi Vikas Nagar, Police Station Civil Line Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Civil Line Bilaspur, District Bilaspur (Chhattisgarh).

----Non-applicant

For Applicant	Ms. Madhunisha Singh, Advocate.
For State	Mr. Ayaz Naved, Government Advocate.
For Objector	Mr. Vijay K. Deshmukh, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****30/06/2021**

1. The matter is heard through Video Conferencing.
2. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.138/2021 registered at Police Station Civil Line Bilaspur, District Bilaspur, C.G. for the offence punishable under Sections 376 and 420 of Indian Penal Code.
3. Case of the prosecution, in brief, is that the applicant was a Head Constable whereas the prosecutrix was working as a Sanitary Contractor in Municipal Corporation. The applicant is

a married person having two children and the prosecutrix is a widow lady having one child. In the year 2013, the applicant met the prosecutrix and after developing intimacy with her, he proposed her for marriage saying that his wife remains ill all the time, he has legally given divorce to her and wants to marry the prosecutrix. In this way, the applicant on 21st August, 2014 performed marriage with the prosecutrix at Mahamaya temple and had physical relations with her. It is alleged that the applicant also obtained money from the prosecutrix for construction of his house, for meeting the education expenses of his daughter, for purchase of car etc. However, subsequently, in the month of June, 2019, the applicant deserted the prosecutrix. Later on, the prosecutrix came to know that the applicant fraudulently obtained money from her and performed marriage with her by playing fraud as he has not got divorce from his wife. On report being lodged to the above effect, the aforesaid offence has been registered against the applicant.

4. Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. She submits that the prosecutrix is a major lady, aged about 40 years and she was having physical relations with the applicant with her own consent. Applicant is languishing in jail since 26.01.2021 and conclusion of trial is likely to take some time. Therefore, applicant be released on bail.
5. On the other hand, learned counsel for the State as well as

the Objector oppose the bail application.

6. Heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the nature of allegation leveled against the applicant, the detention period of the applicant, who is 48 years old, further considering the fact that the applicant is a married person having two children whereas the prosecutrix is a widow lady having one child, the marriage of the prosecutrix with applicant was solemnized on 21st August, 2014, they were having physical relations on number of occasions from August, 2014 to June, 2019, the fact that from the year 2016 to 2019, applicant took Rs.20 lakhs from the prosecutrix for the education of his daughter and purchase of Innova car, prosecutrix is a major lady, aged about 40 years, charge sheet has already been filed, the applicant has no criminal antecedent and there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, the application is allowed. It is directed that in the event of applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- 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 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

Akhilesh