

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1600 of 2021**

- Toman Sahu, S/o Shri Ramdayal Sahu, aged about 21 Years, R/o Village- Sameriya, P.S.- Vidhansabha, District- Raipur, Chhattisgarh.

----Applicant**Versus**

- State of Chhattisgarh, Through the Police Station- Vidhansabha, Raipur, Chhattisgarh.

----Non-applicant

For Applicant	Shri B.P. Sharma, Advocate.
For State	Shri Dinesh Tiwari, Deputy G.A.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

09/04/2021

1. The matter is heard through Video Conferencing.
2. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 27.10.2020 in connection with Crime No.277/2020 registered at Police Station Vidhansabha, Raipur, C.G. for the offence punishable under Section 376 of Indian Penal Code.
3. Case of the prosecution, in brief, is that on 26.10.2020, prosecutrix, lodged a report against the applicant alleging in it that on the pretext of marriage, applicant established physical relations with her from 15.04.2019 to 10.10.2020. When

prosecutrix told the applicant to marry, he left her. Thereafter, she went to the police station and lodged the report against the applicant.

4. Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He also submits that there was love affair between the appellant and the prosecutrix and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the appellant. He is in custody since 27.10.2020, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Heard learned counsel for the parties and perused the case diary.
7. Considering the facts and circumstances of the case, the nature of allegation against the applicant, the fact that the applicant and the prosecutrix, a major girl of 22 years, were having physical relations from 15.04.2019 to 10.10.2020, the detention period of the applicant, who is 21 years of age, further considering the order dated 07.04.2021 passed in W.A. No.83 of 2021 by the Division Bench of this Court, the affidavit filed by the prosecutrix before the trial Court stating that she made physical relations with the applicant with her own will and they are ready to marry, charge sheet has already been filed, the fact that 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.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

Akhilesh