

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 1816 of 2021**

- Akash Netam, S/o Santosh Netam, aged about 20 Years, Caste-Devar, R/o Village- Udaynagr, Kanker, Police Station-Tahsil and District- North Bastar, Kanker, Chhattisgarh.

----Applicant

**Versus**

- State of Chhattisgarh, Through the Station House Officer, Police Station Kanker, District- North Bastar Kanker, Chhattisgarh.

----Non-applicant

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| For Applicant | Shri D.N. Prajapati, Advocate. |
| For State     | Shri Anand Verma, Deputy G.A.  |
| For Objector  | Shri Somkant Verma, Advocate.  |

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**Hon'ble Shri Justice Gautam Chourdiya****Order on Board****10/06/2021**

1. The matter is heard through Video Conferencing.
2. First bail application preferred by the applicant was dismissed as withdrawn vide order dated 10.02.2021 passed in MCRC No. 9441 of 2020.
3. The applicant has preferred this second bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.303/2020 registered at Police Station Kanker, District North Bastar, Kanker, C.G. for the offence punishable under Sections 376(2)(n) and 506 of Indian Penal Code and Sections 4 & 6 of Protection of Children from Sexual Offences Act.
4. Allegation against the present applicant is that he established sexual

intercourse with the prosecutrix on the pretext of marrying her repeatedly and later on refused to marry her. On report being lodged to the above effect, the aforesaid offence has been registered against the applicant.

5. 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 applicant and the prosecutrix and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the applicant. He submits that the applicant and the prosecutrix are now ready to marry. He is in custody since 29.11.2020, charge sheet has already been filed and due to COVID-19 pandemic, conclusion of the trial is likely to take some time. Therefore, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. Learned counsel for the Objector submits that the prosecutrix has no objection to release of the applicant on bail and an application in this regard has been filed herewith as I.A. No.03/2021. He admits that the applicant and the prosecutrix are ready to perform marriage.
8. Heard learned counsel for the parties.
9. Considering the facts and circumstances of the case, the nature of allegation against the applicant, the deposition of the prosecutrix recorded before the trial Court where she has stated that no forcible sexual intercourse was committed by the applicant, the fact that the marriage of the prosecutrix was earlier fixed with the applicant by their

families, the age of the prosecutrix at present i.e. 22 years, they are ready to perform marriage and that complainant/prosecutrix has filed an application before this Court raising no objection to release of the applicant on bail which is supported by her affidavit, charge sheet has already been filed, the detention period of the applicant, who is 20 years old, 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.

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