

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 1973 of 2021

- Himanshu Sahu S/o Baldev Sahu, aged about 27 years, R/o Village Tadesara, P.S. Somani, Tahsil and District Rajnandgaon (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station – Somani, District Rajnandgaon (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Aditya Bhardwaj, Advocate
For Non-Applicant/State	:	Shri Ashish Gupta, Panel Lawyer,

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

18.03.2021

1. Heard.
2. Admit.
3. With the consent of learned counsel for the parties, the matter is heard finally.
4. The applicant has preferred this second bail application under Section 439 of Cr.P.C. as he is in jail since 17.08.2020 in connection with Crime No. 154/2020 registered in Police Station- Somani, District Rajnandgaon (CG) for the offence punishable under Section 376 of IPC.
5. First bail application of the applicant was disposed of as withdrawn with liberty to file a fresh application as and when occasion arises vide order dated 13.01.2021 in M.Cr.C. No. 9019 of 2020.
6. Case of the prosecution in brief is that on 16.08.2020, the prosecutrix lodged a written report against the applicant stating that she and the applicant were having love affair since November 2019 whereas her engagement was fixed with one Ramnarayan. On 28.02.2020 the applicant after alluring her on the pretext of marriage, committed sexual intercourse with her against her will in his house due to which she became pregnant. Thereafter, a meeting was

convened by the Society where the applicant refused to marry with the prosecutrix.

7. Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in the crime in question. He further submits that as per DNA Report filed as Annexure-A/3, the applicant is not biological father of the child of the prosecutrix. He also submits that the applicant is in jail since 17.08.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time, therefore, the applicant be released on bail.
8. On the other hand, learned counsel for the State opposes the bail application.
9. Considering the facts and circumstances of the case, as per case diary, the applicant and the prosecutrix were having affair since November, 2019, the engagement of the prosecutrix was fixed with one Ramnarayan Sahu, thereafter on 28.02.2020 the applicant and the prosecutrix had made physical relationship at the home of the applicant, thereafter she became pregnant and due to this reason a meeting was convened by their Society where the applicant refused to marry her, after six months of the incident, the prosecutrix lodged the report against the applicant, that as per DNA report, the applicant is not biological father of the child of the prosecutrix, the applicant is in jail since 17.08.2020, charge-sheet has already been filed and conclusion of the trial is likely to take some time, without expressing any opinion on merits of the case, the bail application is allowed.
10. 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