

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 2082 of 2021

- Anup Kumar Kenwat, S/o Shri Ram Kumar Kenwat, Aged About 21 Years, R/o Village Urtum, Police Station Sarkanda, Tahsil and District- Bilaspur, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh.

---- Non-Applicant

For Applicant	:	Shri Wasim Miyan, Advocate
For Non-Applicant/State	:	Shri Devesh Verma, G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

28.05.2021

Heard.

- 1) The First Bail Application of the present applicant, filed under Section 439 of Cr.P.C. was dismissed as withdrawn vide order dated 01.02.2021 in MCRC No. 9305 of 2020.
- 2) The applicant has preferred this Second Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 27.10.2020 in connection with Crime No.953/2020 registered at Police Station- Sarkanda, District- Bilaspur (C.G.) for the offence punishable under Section 376 of IPC.
- 3) Case of the prosecution, in brief, is that on 13.10.2020, at about 2 p.m. the present applicant went village Mohra and told the prosecutrix to go with him, he will marry her. At that time the Prosecutrix's parents were not present at the home. The prosecutrix without intimation went alongwith the present applicant with her own cycle to village Urtum. The applicant took

the prosecutrix to under construction house, forcefully gave alcohol to drink and made forcibly sexual intercourse with her, the applicant also threatened her not to disclose the fact to anyone and run away.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding the applicant has been arrested on 27.10.2020, charge-sheet has already been filed. It is submitted that prosecutrix is major lady, aged about 19 years old. Statement of the prosecutrix and her mother did not support the case of the prosecution. In this case only two witnesses were examined out of 19 witnesses and due to COVID-19 situation trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.
- 5) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that the applicant has no criminal antecedents.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the age of the prosecutrix, statements of prosecutrix and her mother recorded before the trial Court, detention period of the applicant, who is 21 years old, only two witnesses have been examined, the fact that the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and looking to the COVID-19 situation conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 7) It is directed that in the event of the 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 following conditions :-

(a) 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.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) 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.

(e) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.

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)
Vacation Judge

Nadim