

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 3034 of 2021

- Tribhuvan Sahu, S/o Tukeshwar Sahu, Aged About 22 Years, Caste Teli, R/o Village Donar, Police Station and Tahsil Dhamtari, District- Dhamtari, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- S.H.O. Bishrampur, District- Surajpur, Chhattisgarh. **---- Non-Applicant**

For Applicant : Shri Gyan Prakash Shukla, Advocate
For Non-Applicant/State : Shri Shreshtha Gupta, Panel Lawyer

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

09.07.2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 04.12.2020 in connection with Crime No.232/2020 registered at Police Station Bishrampur, District- Surajpur (C.G.) for the offence punishable under Section 376 (2) (N) of IPC.
- 2) Case of the prosecution, in brief, is that during July, 2018 the prosecutrix and the present applicant were working together at Raipur in a Private Marketing Company and fall in love affair with each-other. The present applicant on the pretext of marriage continuously made physical relation with her from July, 2018 till lodging of the report. On report being lodged to the above effect, the offence has been registered against the present applicant.
- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the the prosecutrix is major girl, she does not support the prosecution case as per Annexure A/2. It is further submitted that prosecutrix is consenting party, there is delay in

lodging of FIR, charge-sheet has been filed, 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 04.12.2020 and trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.

- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that the applicant committed forcibly sexual intercourse with the prosecutrix on the pretext of marriage, however he submits that the applicant has no criminal antecedents.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the allegation made against the present applicant, the prosecutrix is major girl, charge-sheet has been filed, love affair between prosecutrix and the applicant, incident took place in the year 2018 and FIR lodged on 04.12.2020, statement of the prosecutrix (Annexure A/2) recorded before the trial Court, 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 counsel and conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 6) It is directed that in the event of the applicant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail, on 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

Nadim