

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3130 of 2021**

- Deepak Patel, S/o Late Shri Pawan Patel, aged about 22 Years, R/o Village Nardha, P.S. Jamul, District Durg, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Saraswati Nagar, District Raipur, Chhattisgarh.

----Non-applicant

For Applicant	Shri C.R. Sahu, Advocate.
For State	Shri Shreshta Gupta, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

12/07/2021

1. The matter is heard through Video Conferencing.
2. The applicant has preferred this application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.20/2021 registered at Police Station Saraswati Nagar, District Raipur, C.G. for the offence punishable under Sections 376 & 313 of Indian Penal Code.
3. Allegation against the applicant by the prosecutrix is that on the pretext of marrying her, applicant committed sexual intercourse with her. When she got pregnant, applicant refused to marry her and caused miscarriage of her pregnancy by administering certain medicines to her. On report being lodged to the above effect, the aforesaid offence have been registered 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 the applicant and the prosecutrix were known to each other for the last one year, the prosecutrix is a major girl of 29 years, and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 06.03.2021 and due to COVID-19 pandemic, 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 fact that both the applicant and the prosecutrix were having love affair, on the pretext of marriage, the applicant took her to collage Ramnagar where he established physical relations with her and even thereafter continued to have such relations on many occasions, the FIR was lodged about a year after the incident, no medical report is there suggesting abortion of the prosecutrix, the manner in which the incident is said to have taken place, charge sheet has already been filed, detention period of the applicant, who is 22 years old, further considering the statement of prosecutrix under Section 164 of Cr.P.C., the age of the prosecutrix i.e. 29 years and 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, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the applicant. Accordingly, 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 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

