

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3331 of 2021

1. Khilawan Sahu S/o Late Samaru Sahu, Aged About 29 Years, R/o Ward No. 18, Chhuria, Police Station And Tehsil Chhuria, District Rajnandgaon (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station Chhuria, District Rajnandgaon (C.G.).

---- Non-Applicant

For Applicant	:	Mr. S.S. Baghel, Advocate.
For Non-Applicant/State	:	Mr. Priyanshu Gupta, Panel Lawyer.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

16/07/2021

- 1) The matter is heard through Video Conferencing.
- 2) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 10/04/2021 in connection with Crime No. 90/2021 registered at Police Station Chhuria, District Rajnandgaon (C.G.) for the offence punishable under Section 376(2)(a), 294, 323 & 506 of Indian Penal Code.
- 3) Case of the prosecution, in brief, is that the applicant was living as a tenant in house of the prosecutrix for the last 7 years and during this period he developed intimacy with the prosecutrix and established physical relation repeatedly with her on the pretext of marriage. It is alleged that on 09/04/2021 the applicant misbehaved with the prosecutrix in a drunken condition for not picking up his phone, threatened her of life and also assaulted her as a result of which she sustained injuries on her nose, head, hand and elbow. On report being lodged to the above

effect by the prosecutrix, offence has been registered against the present applicant.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He also submits that in fact the applicant had made a complaint against the maternal aunt (*Mousi*) of the prosecutrix for illegally selling the government land to one Geetam Sahu who was raising construction thereon and therefore a false report has been lodged against the applicant by the prosecutrix at the instance of her maternal aunt (*Mousi*). He submits that the applicant has been arrested on 10/04/2021, charge sheet has been filed and trial is likely to take some time for its disposal due to COVID-19 Pandemic. Therefore, the applicant be released on bail.
- 5) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 6) Considering the facts and circumstances of the case, the fact that there was love affair between the applicant and the prosecutrix for last 7 years prior to lodging of the report, they were living as husband and wife for a long time, the applicant had lodged a complaint against the maternal aunt (*Mousi*) of the prosecutrix and thereafter only the present crime was registered against the applicant on the report of the prosecutrix, there was long consensual physical relation between the applicant and the prosecutrix, the detention period of the applicant who is 29 years old, charge sheet has already been filed, the fact that there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial may take some time due to COVID-19 Pandemic, the application is **allowed**. 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/- 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,
- 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 Govt./State Govt./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**

Chandrakant