

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 3426 of 2021

- Pukeshwar Deshmukh @ Golu, S/o. Shri Premal Deshmukh, Aged About 29 Years, R/o. Tirga, House No. 106 Kuramipara, Thana - Anda, District : Durg, Chhattisgarh. ---- **Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Kanker, North Baster Kanker, District : Kanker, Chhattisgarh. ---- **Non-Applicant**

For Applicant : Shri Sunil Sahu, Advocate
For Non-Applicant/State : Shri C.B. Kesharwani, Panel Lawyer

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

19.07.2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 25.03.2021 in connection with Crime No.84/2021 registered at Police Station- Kanker, District- North Baster Kanker (C.G.) for the offence punishable under Section 376, 376 (2) (n), 506 of IPC.
- 2) Case of the prosecution, in brief, is that the present applicant and the prosecutrix met in the year 2018, in the Gram Panchayat, where the prosecutrix had gone for filling up the Ujjwala Yojna form, the applicant obtained her mobile number from the said form and started talking with her and also started meeting outside with her. On 16.10.2018 when the prosecutrix was returning to her home, on mid way, the applicant took her to a deserted place and committed forcible sexual intercourse with her. Later, the applicant continuously established physical relation with her at number of places, he used to take her obscene pictures and also saved Whatsapp chat between them. When the prosecutrix later

refused to have physical relation with him, he threatened her of showing the said recordings and obscene pictures to her father and making it viral and committed sexual intercourse as a result of which, she got pregnant, later got aborted by the applicant by administering her certain medicines. When her marriage was fixed in the year of 2021, the applicant having disclosed about his relation with the prosecutrix to the boy with whom her marriage was fixed, got said relation broken.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the applicant is a young offender, he has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding the applicant has been arrested on 25.03.2021, there is inordinate delay in lodging of the report, both applicant and prosecutrix have love relation, both were major at the time of incident, whatever happened between them was consensual and due to Covid-19 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 has no criminal antecedents.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, relation between the applicant and the prosecutrix appears to be consensual, the prosecutrix was major at the time of incident, incident took place in the year of 2018 whereas report was lodged in the year of 2021, the detention period of the applicant, who is 29 years old and 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 due to Covid-19 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