

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3482 of 2021

1. Ajhar Chelak S/o Shri Mani Ram Chelak, Aged About 21 Years, R/o Village Tipni, Police Station And Tahsil Thana Khamharia, District Bemetara (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through The Rakshit Arakshi Kendra, District Bemetara (C.G.).

---- Non-Applicant

For Applicant : Ms. Khushboo Dua, Advocate.

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

20/07/2021

- 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 16/12/2020 in connection with Crime No. 174/2020 registered at Police Station Khamharia, District Bemetara (C.G.) for the offence punishable under Section 376, 506 & 109 of Indian Penal Code.
- 3) Case of the prosecution, in brief, is that main accused Komal Markande entered into the house of the prosecutrix aged about 19 years and on the pretext of marriage, he committed sexual intercourse with prosecutrix. Applicant Ajhar Chelak and other co-accused persons namely Manish Kumar, Tarachand, Harishchand helped Komal Markande enter the house of the prosecutrix.
- 4) Learned counsel for the applicant submits that the applicant has

been falsely implicated in the crime in question. She submits that the prosecutrix was having a love affair with main accused Komal Markande and there is no allegation against present applicant regarding commission of offence of rape or that he made any obscene video or photographs of the prosecutrix. She further submits that co-accused namely Tarachand and Harishchand have been granted regular bail by this Court vide order dated 08.02.2021 passed in M.Cr.C. No. 26 of 2021, Komal Markande & Manish Kumar have been granted regular bail by this Court vide order dated 08.06.2021 passed in M.Cr.C. No. 1632 of 2021 & M.Cr.C. No. 1938 of 2021. She also submits that the applicant is in jail since 16/12/2020, charge-sheet has already been filed and conclusion of the trial is likely to take some time due to COVID-19 Pandemic. Therefore, the applicant be released on bail.

- 5) On the other hand, learned counsel for the State opposes the bail application.
- 6) I have heard learned counsel for the parties
- 7) Considering the facts and circumstances of the case, looking to the age of the prosecutrix who is aged about 19 years having relation with main accused Komal Markande prior to the date of incident, general allegation made against the present applicant is that he assisted the prosecutrix to climb down from her house through a ladder to meet with the main accused Komal Markande, except that no other allegation was made against the present applicant regarding commission of offence of rape, the co-accused persons in this case have already been granted regular bail by this Court, the detention period of the applicant who is 21 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. 50,000/- with two sureties of Rs. 25,000/- 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