

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3488 of 2021

1. Mukesh Kumar Yadav Son Of Mohan Lal Yadav, Aged About 28 Years, R/o Village Bhendri, Post Pasta, Police Chaouki Doura, Police Station Pasta, District Balrampur-Ramanujganj (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Police Chaouki Doura, Police Station Pasta, District Balrampur-Ramanujganj (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Akhat Kumar Yadav, Advocate.
For Non-Applicant/State	:	Mr. C.B. Kesharwani, Panel Lawyer.

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 05/04/2021 in connection with Crime No. 25/2021 registered at Police Station Pasta, District Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 376(2)(n), 366 & 506 of Indian Penal Code.
- 3) As per the complaint dated 05/04/2021 lodged by the prosecutrix, on 20/03/2021 at about 4 PM when she had gone to her agricultural field for cutting grass, the applicant who is her brother-in-law, having caught hold of her took her to Korwa Dubagada forest and committed forcible sexual intercourse with her. Thereafter, he took her to Wadraf Nagar and from there to Banaras where he kept her for 5 days and during this period he subjected her to repeated forcible sexual intercourse. Further he took her back from Banaras to Ambikapur on 26/03/2021 and

committed rape with her for 7 days. However, on 01/04/2021 the applicant fled away living her at village Ajirma.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He also submits that the story put forth by the prosecutrix is highly improbable and there is also unexplained inordinate delay in lodging the FIR. The prosecutrix is a major lady of 34 years, no offence has been committed by the applicant. He submits that the applicant has been arrested on 05/04/2021, 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 State opposes the bail application.
- 6) I have heard learned Counsel for the parties.
- 7) Considering the facts and circumstances of the case, the manner in which the offence is alleged to have been committed, the prosecutrix is a major lady of 34 years, according to the prosecution case she was taken by the applicant on motorcycle firstly to Wadrafnagar and thereafter in Bus to Banaras and Ambikapur where they stayed together for about 12 days, she had deserted by the applicant on 01/04/2021 whereas the FIR was lodged on 05/04/2021, the detention period of the applicant who is 28 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