

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 4807 of 2021

- Santosh, S/o Ramlal, Aged About 26 Years, R/o Badhima, Police Station and Tehsil Rajpur, District- Balrampur-Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- Outpost Bariyon, Police Station Rajpur, District- Balrampur-Ramanujganj, Chhattisgarh.

---- Non-Applicant

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

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

29.07.2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 23.04.2021 in connection with Crime No. 84/2021 registered at Police Station- Outpost- Bariyon, P.S. Rajpur, District- Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 376 (2) (n), 323, 506 of IPC.
- 2) Case of the prosecution, in brief, is that on 23.04.2021 the prosecutrix/complainant lodged one report at police station -Boriyon to the effect that the present applicant on pretext of marriage made repeatedly forcibly sexual intercourse with the prosecutrix for one year. However, the applicant took the prosecutrix to his house and after some days he brutally ousted her and subsequently refuse to marry the prosecutrix despite her repeated request for marrying her and for the same he used to assault her.

- 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 and the prosecutrix has love affair, both are major aged about 26 years old. There is delay in lodging FIR. Charge-sheet has already been filed. The applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding the applicant has been arrested on 23.04.2021 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-Applciant/State opposes the bail application and submits that the applicant made forcibly sexual intercourse with the prosecutrix on the pretext of marriage and he used to assault her whenever she asked about their marriage with each-other.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicant, the love relation between the applicant and the prosecutrix, the fact that prosecutrix was major at the time of incident, there is delay in lodging of the report, the detention period of the applicant, who is 26 years old, charge-sheet has already been filed 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