

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

M.Cr.C. No. 5155 of 2021

- Omprakash Chandravanshi, son of Baldau Prasad Chandravanshi, aged about 31 years, resident of village Jhalmala Police Station Pipariya, Tahsil Kawardha, District Kabirdham (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House Officer, P.S. Pipariya, District Kabirdham (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Hemant Kumar Agrawal, Advocate
For Non-Applicant/State	:	Shri Shrestha Gupta, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J
Order on Board

04.08.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 02.07.2021 in connection with Crime No. 50/2021 registered in Police Station- Pipariya, District Kabirdham (CG) for the offence punishable under Section 376 (2) (n) of IPC.
2. Prosecution story in brief is that the prosecutrix aged about 28 years and the applicant aged about 31 years. The applicant came in contact with the prosecutrix in October, 2017 at Jagannath Temple, Pipariya and thereafter, they started talking to each other over mobile phone. Meanwhile, the applicant developed intimacy with her and proposed her for marriage. On 6.1.2019 while the applicant was alone, he called the prosecutrix at his home at Village-Jhalmala and had forcible sexual intercourse with her. Thereafter, he had physical relations with her on many occasions till 25.1.2021. However, later on the applicant refused to marry her. Hence on report being lodged to the above effect, the aforesaid offence has been registered against applicant.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this crime. He submits that the prosecutrix is major girl of 28 years. He further submits that the applicant and prosecutrix were having physical relations from 06.01.2019 to 25.01.2021, but neither the F.I.R. was lodged by the prosecutrix, nor any complaint made to any person regarding offence committed by the applicant prior to lodging of the present F.I.R. He also submits that the applicant is languishing in jail since 02.07.2021 who is 31 years old, charge-sheet has been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, the applicant be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel for the parties.
6. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the fact that there were continuously physical relations between the applicant and the prosecutrix from 06.01.2019 to 25.01.2021, no report was lodged or any complaint was made during this period, the prosecutrix is major lady at the time of incident, after two years of long delay she lodged the F.I.R. on 26.01.2021 when applicant refused to marry her, and that the applicant is in jail since 02.07.2021, charge-sheet has already been filed, conclusion of the trial is likely to take some time, and the fact that there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsels, without expressing any opinion on merits of the case, the bail application is allowed. .
7. It is directed that in the event of 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 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/her 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.

8. 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 nature of offence.

Sd/-

(Gautam Chourdiya)
Judge

vatti