

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 6365 of 2021

- Bajrang Vishwakarma son of Machhinder Vishwakarma (wrongly mentioned as Mahinder Vishwakarma in bail rejection order), aged about 32 years, Caste-Lohar, resident of Sahaspur, Police Station- Farsabahar, District - Jashpur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through : Station House Officer, Police Station- Kansabel, District- Jashpur (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Manoj Chauhan, Advocate
For Non-Applicant/State	:	Shri Priyanshu Gupta, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

21.09.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 27.05.2021 in connection with Crime No. 63/2021 registered in Police Station- Kansabel, District Jashpur (C.G.), for the offence punishable under Sections 366, 376 (2) (n) & 506 of IPC.
2. As per prosecution story in brief, on 27.05.2021, the prosecutrix lodged a report at Police Station, Kansabel alleging that on 03.05.2021, while she was returning from shop to her house, at that time on the way, the applicant took her towards Garaiband Jungle and committed sexual intercourse with her on the pretext of marriage. On 08.05.2021 the prosecutrix was taken back by her family members from the possession of the applicant.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, the applicant and prosecutrix were having love affair with each other and the prosecutrix is a married lady, therefore, the allegation of commission of sexual intercourse on the pretext of marriage is baseless. He further submits that looking to the conduct of the prosecutrix and the material collected by the prosecution, the prosecutrix is a consenting and willing party. He submits that there is no likelihood of the

applicant tampering with the prosecution evidence or absconding, he is in jail since 27.05.2021 and due to Covid-19 pandemic, 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.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, looking to the age of the prosecutrix, she is a married lady; the prosecutrix and the applicant were acquainted with each other prior to the date of incident, they were talking with each other on mobile phone; the incident happened on 03.05.2021, as per order of trial Court the prosecutrix and the applicant were living together from 03.05.2021 till 08.05.2021, when her husband, brother and father during search took away the prosecutrix from the possession of the applicant; F.I.R. was lodged on 27.05.2021, whereas it was well within the knowledge of the family members of the prosecutrix that she was missing for three days from 03.05.2021 to 08.05.2021, but no report was lodged by her family members during that period; the detention period of the applicant who is 32 years old, the fact that 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 pandemic, conclusion of trial may take some time, without commenting anything on merits of the case, the bail application is allowed.
6. 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 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.

7. 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