

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.Cr.C. No. 6747 of 2021**

- Pushpendra Kumar Banerjee, aged about 21 years, S/o Laxman Banerjee, R/o Chirmiri, Present address- Near Rajiv Gandhi Chowk, Badhaichal, Tahsil & District Bilaspur (C.G.)

---- Applicant

**Versus**

- State of Chhattisgarh Through the Police Station Mahila Thana, District Bilaspur (C.G.)

---- State/Non-Applicant

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|-------------------------|---|------------------------------------|
| For Applicant           | : | Shri Rahil Arun Kochar, Advocate   |
| For Non-Applicant/State | : | Shri Chitendra Singh, Panel Lawyer |

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

**29.09.2021**

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 21.07.2021 in connection with Crime No. 48/2021 registered in Police Station Mahila Thana, District Bilaspur (C.G.), for the offence punishable under Sections 376, 450, 506 of IPC.
2. The prosecutrix and the applicant are cousin and both are well known to each other. Allegation against the present applicant is that previously he took the prosecutrix to his room, when she resisted, he told her if she would not go with him, he would kill her sister, then she went to his room where he committed forcible sexual intercourse with her. Thereafter, on 17.07.2021 at about 01-02:00 am in the night, the applicant again took the prosecutrix and committed sexual intercourse with her. On the next day, when sister of the prosecutrix enquired from her as to why she was not on the bed at night, the prosecutrix disclosed that the applicant committed forcible sexual intercourse with her. Thereafter, the prosecutrix lodged a report on 21.07.2021 against the present applicant.
3. Learned counsel for the applicant submits that the applicant has been falsely

implicated in the crime in question. He submits that the prosecutrix lodged the F.I.R. on 21.07.2021, there is delay of four days in lodging the F.I.R. by the prosecutrix. He also submits that there is no likelihood of the applicant tampering with the prosecution evidence or absconding, he is in jail since 21.07.2021 and 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. Heard learned counsel for the parties.
6. Having regard to the facts and circumstances of the case, considering 164 Cr.P.C. statement of the prosecutrix where she has not made any allegation regarding forcible sexual intercourse with her by the applicant, number of times she visited with the applicants, she is a major girl aged about 21 years and has not narrated the incident to her family member, there is delay of four days in lodging the F.I.R. by the prosecutrix against the applicant, the detention period of the applicant who is 21 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 conclusion of trial may take some time, without commenting anything 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.2,00,000/- with two sureties of Rs.1,00,000/- 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 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