

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6757 of 2021

- Anand Kumar Tiwari @ Kapil, S/o Shri Harendra Nath Tiwari, Aged About 28 Years, R/o Village Kornar, Post- Harinamadh, Police Station- Chainpur, District- Palamu (Jharkhand), At Present Adani Mines, Parsa, Police Station and Tahsil- Udaypur, District- Surguja, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Mahila Thana, Ambikapur, District- Surguja, Chhattisgarh. **---- Non-Applicant**

For Applicant : Shri Jitendra Shrivastava, Advocate
For Non-Applicant/State : Shri C. B. Kesharwani, P. L.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

26.10.2021

Heard.

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 08.07.2021 in connection with Crime No.42/2021 registered at Police Station-Mahila Thana, Ambikapur, District-Surguja (C.G.) for the offence punishable under Section 376 (2) (n) of IPC.
- 2) Allegation against the applicant is that he made repeatedly forcible physical relation with the prosecutrix on the pretext of marriage at number of places and subsequently refused to marry her. Thereafter, report was lodged in police station and during investigation the applicant was arrested.
- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that the prosecutrix is major lady aged about 33 years, both are having love affair, charge sheet has already been filed,

applicant has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding. The applicant is in jail since 08.07.2021 and trial is likely to take some time for 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 and submits that the applicant has no criminal antecedents.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, love affair between the applicant & prosecutrix, they visited number of places together, prosecutrix is well grown up lady, the detention period of the applicant, who is 28 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 counsel and 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