

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6944 of 2021**

- Gunwant Goswami, S/o Banshi, aged about 23 Years, R/o Sapnaipali, Police Station- Sakti, District- Janjgir-Champa, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station- Sakti, District- Janjgir- Champa, Chhattisgarh.

---Non-applicant

Applicant
For State

Shri N.K. Chatterjee, Advocate.
Shri Priyanshu Gupta, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

27/10/2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.128/2021 registered at Police Station Sakti, District Janjgir-Champa, C.G. for the offence punishable under Sections 376, 323, 506 of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act.
2. Allegation against the present applicant is that in the year 2017, applicant on the pretext of marriage, established forcible sexual intercourse with the prosecutrix, aged about 17 years and also committed *marpeet* with her. On report being lodged to the above effect, the aforesaid offence have been registered against the applicant.
3. Learned counsel for the applicant submits that applicant is an innocent

person and has been falsely implicated in this case. He also submits that there was love affair between the applicant and the prosecutrix and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the applicant. There is also delay in lodging the FIR of about four years. He is in custody since 10.05.2021, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application. He submits that the applicant has only one criminal antecedent of the year 2020 for the offence under Sections 294, 506 & 323 of Indian Penal Code.
5. Heard learned counsel for the parties.
6. Considering the facts and circumstances of the case, the nature of allegation against the applicant, the fact that the applicant and the prosecutrix, aged about 17 years, were having love affair from the year 2017 and during this period, they established physical relations on number of times whereas FIR was lodged after an inordinate delay of four years i.e. on 10.05.2021, no proper explanation has been given by the prosecutrix regarding delay of four years in lodging the FIR, charge sheet has been filed, the detention period of the applicant, who is 23 years of age and there is no likelihood of the applicant tampering with the 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, this Court is of the opinion that present is a fit case to release the applicant on bail. Accordingly, the bail application is allowed. 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 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.

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 any offence in future.

Sd/-
Gautam Chourdiya
Judge

Akhilesh