

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 6886 of 2021

Alim Khan, S/o Late Salim Khan, Aged About 28 Years R/o Tulsipur,
Shastri Chowk, Ward No. 18, Tahsil And District Rajnandgaon
Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through - Station House Officer, Police Station
Kotwali, Rajnandgaon, Civil And Revenue District Rajnandgaon
Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant : Shri M.H. Baig, Advocate

For Non-applicant : Shri Sudhir Sahu, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

20/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.146/2021 registered at Police Station -Kotwali Rajnandgaon (C.G.) for the offence punishable under Sections 457, 380, 34 of IPC.
2. Case of prosecution is that in the night of 03.03.2021, co-accused Taniya Shrivastava committed theft of cash of Rs.3,500/-, gold chain and one gold bracelet from the house of complainant – Rekha Shrivastava (relative of co-accused). As complainant

-Rekha came to know that certain articles were missing, she enquired and thereafter lodged report against co-accused Taniya Shrivastava before concerned police station. She was arrested on 8.3.2021 and based upon memorandum statement of co-accused, applicant was also arrested.

3. Learned counsel for applicant would submit that applicant has been falsely implicated in case. In the entire case diary, there is no allegation against applicant that he committed house trespass or theft of any article from house of complainant. He was arrested based on memorandum statement of co-accused, nephew of complainant wherein she stated that under threat and pressure of applicant for demand of money, she committed theft. He submits that applicant and co-accused Taniya Shrivastava were having love affair. She handed over the theft article to applicant saying that she is gifting him, hence, he has accepted it. He submits that applicant is having no other criminal antecedent against him of similar nature.

4. Learned counsel for the State opposes the submission of learned counsel for the applicant and would submit that there is involvement of applicant in commission of crime as gold chain and bracelet have been seized from possession of applicant. He also submits that in statement of co-accused it has come that applicant earlier tried to outrage her modesty which was brought to notice of her relatives and thereafter applicant was cautioned and warned not to commit such offence. It has also come that earlier also, under the threat and pressure of applicant, she handed over

Rs.17,000/- to him and thereafter when again applicant made pressure upon her demanding, she committed theft and handed over the theft articles to applicant. Hence, there is prima facie involvement of applicant in commission of crime. However, upon putting specific query to learned counsel for State with regard to any other criminal antecedent against applicant, he submits that there is one criminal antecedent against applicant of the year 2018 of commission of offence under Section 354 of IPC as also commission of offence under Protection of Children from Sexual Offences Act.

5. At this stage, learned counsel for applicant submits that crime as stated by learned counsel for State is the allegation levelled by co-accused Taniya earlier against applicant based on the pressure of her family members and except this, there is no criminal antecedent against him. He submits that applicant is in jail since 08.03.2021, offence is triable by Judicial Magistrate First Class, conclusion of trial may take some time. Hence, applicant may be released on regular bail.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, applicant is in jail since 8.3.2021, offence to be triable by Magistrate, without commenting anything on merits, I am inclined to allow the bail application.
8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon his furnishing a

bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that:-

- a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge