

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8914 of 2020**

- Khitij Vishvas, S/o. Late Satish Vishvas, aged about 52 Years, Caste Namoshudra, Occupation Agriculture, R/o. Village Kerwasila (Krishnanagar), Ward No. 01, Bangali Para, Post Aragahi, Police Station Ramanujganj, Tahsil Ramanujganj, District Balrampur-Ramanujganj (Chhattisgarh).

----Applicant

Versus

- State of Chhattisgarh, Through the Police of Police Station Gandhinagar, District Surguja (Chhattisgarh).

---- Respondent

For Applicant
For State

Mr. Govind Dewangan, Advocate.
Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

08/01/2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of bail as he has been arrested in connection with crime No. 274/2016, registered at Police Station – Gandhinagar, District Surguja, C.G. for the offence punishable under Sections 376, 366 and 506 read with 34 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 22.08.2016 when the prosecutrix was returning to her house from college, at about 12:00 noon co-accused Dhiraj Vishvas and Vishnu Gupta met her on the way in car and asked her to drop her at home. Initially the prosecutrix refused but on repeated request by the co-accused she

along with her friend Pooja sat in the car. The co-accused persons dropped Pooja at Pratapur Naka and drove away with the prosecutrix. The aforesaid co-accused persons along with the prosecutrix stayed in a lodge and there the co-accused Dhiraj Visvas had forcibly committed sexual intercourse with the prosecutrix. Thereafter, co-accused Dhiraj Vishwas also committed rape with the prosecutrix on several occasions.

Allegation against the present applicant is that on 24.08.2016 he along with other co-accused persons took the prosecutrix to the Court where marriage of the prosecutrix with co-accused Dhiraj Vishwas was forcibly notarized on threat.

3. Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He submits that the applicant is in jail since 24.10.2020, charge sheet has already been filed, nothing is required to be seized from the applicant and more so, the similarly situated co-accused persons namely Dhiraj Vishwas in MCRC No.3385 of 2017, Vikky Viswas in MCRC No.1660 of 2017, Vishnu Gupta and Manjit Haldar in MCRC No.1663 of 2017 have already been granted regular bail by the Co-ordinate Bench of this Court vide order dated 12.06.2016 and 24.03.2017 respectively. Therefore, the applicant be also granted bail on the ground of parity.
4. On the other hand, learned counsel for the State opposes the bail application.
5. Considering the facts and circumstances of the case, the detention

period of the applicant, in particular the fact that the similarly situated co-accused persons namely Dhiraj Vishwas in MCRC No.3385 of 2017, Vikky Viswas in MCRC No.1660 of 2017, Vishnu Gupta and Manjit Haldar in MCRC No.1663 of 2017 have already been granted regular bail by the Co-ordinate Bench of this Court, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the applicant. Accordingly, the application is allowed. It is directed that in the event of applicant executing a personal bond for a sum of Rs.25,000/- with one surety of the like amount 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.

Sd/-
Gautam Chourdiya
Judge