

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9133 of 2020**

- Nimesh Yadav, S/o Ramcharan Yadav, aged about 30 Years, R/o Village Tekapar, Post Office Mudhipar Tekapalkala, Mudhipar, Rajnandgaon, Khairagarh, Chhattisgarh.

---Applicant**Versus**

- State of Chhattisgarh, Through Police Station Torva, District Bilaspur, Chhattisgarh.

----Respondent

For Applicant
For State

Shri Ashutosh Trivedi, Advocate.
Shri Dinesh Tiwari, Deputy G.A.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

21/01/2021

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 09.10.2020 in connection with Crime No.302/2020 registered at Police Station Torva, District Bilaspur, C.G. for the offence punishable under Sections 376 and 417 of Indian Penal Code.
2. Case of the prosecution, in brief, is that in the month of November, 2015 prosecutrix, aged about 27 years, met the applicant in Temple and thereafter they started talking with each other on mobile. In the month of January, 2016, applicant went to the house of prosecutrix and on the pretext of marriage, he established physical relations with her. When the prosecutrix told the applicant to marry, he left her. Thereafter, she went to the police station and lodged the report

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 prosecutrix has lodged the FIR after the inordinate delay of 4 years and no proper explanation has been given by the prosecutrix regarding such delay in lodging the FIR. He submits that the prosecutrix is a married and well grown up lady of 27 years. He also submits that applicant has never made any inducement to the prosecutrix and never made any false pretext of marriage with the prosecutrix as the applicant knew that the prosecutrix is a married lady having children. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 09.10.2020 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.
5. Heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the nature of allegation against the applicant, the detention period of the applicant, further considering the fact that prosecutrix is a married women and also left her husband and children, her husband also lodged a complaint against her on 23rd March, 2017 and that document is also the part of charge sheet, the conduct of the prosecutrix, no proper/sufficient explanation given by the prosecutrix regarding four years delay in lodging the FIR, without commenting anything on 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.50,000/- with two sureties of Rs.25,000/- 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.

Sd/-
Gautam Chourdiya
Judge