

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8833 of 2020**

- Sanjay Thakur, S/o Gorelal Thakur, Aged About 35 Years Occupation Cultivator, R/o Village Rampur, Police Station Patna, Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh, Through - The Police Station Patna, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Ashok Kumar Shukla, Advocate.
For State	:	Mr. Vaibhav Singh, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****25-01-2021**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as he is in jail since 21-10-2020 in connection with Crime No. 241 of 2020 registered at Police Station Patna, District Koriya (CG) for the offence punishable under Sections 376 & 506 of IPC.
2. The allegation against the present applicant is that on 17.2.2017 the applicant had first committed forcible sexual intercourse with the prosecutrix and thereafter, repeated the said act with her at different places. It is further alleged that the applicant also threatened her of making her video, prepared during sexual intercourse, viral and thereby committed the aforesaid offence.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that the

applicant has not committed any offence and no any video clipping was seized from the applicant and even medical evidence does not support the case of the prosecution. There is also inordinate unexplained delay of more than three years in lodging the FIR. It is further submitted that the offence of rape and threat is not made out against the present applicant. He would further submit that the charge-sheet has been filed, present applicant is in jail since 21-10-2020 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. I have heard learned counsel for the parties and perused the record.
6. Perusal of the case diary reveals that the prosecutrix is aged about 25 years, she was married to one Vishnu Kusuwaha and out of their wedlock one child was born. It would further reveal that the applicant allegedly had first forcible sexual intercourse with the prosecutrix on 17.2.2017 and thereafter, he continued to do so on different occasions till lodging of the FIR which was registered on 21.10.2020 and no any video clipping was seized from the applicant.
7. Considering the facts and circumstances of the case, particularly considering the fact that no any video clipping was seized from the applicant, the inordinate delay of about 3 years and 8 months in lodging the FIR, the prosecutrix is a well grown up married lady having one child, the conduct of the prosecutrix, the overall material available on record as well as the detention period of the applicant and the fact that conclusion of the trial is likely to take some time, without commenting anything on merits of the case, I am of the opinion that it

is a fit case to grant bail to the applicant.

8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his 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 appear before the trial Court on each and every date given by the said trial court, till disposal of the trial. The applicant is being granted 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 them 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

Raju