

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8810 of 2020

1. Istkhar @ Sheru Mirja S/o Mirja Kalim, Aged About 22 Years, R/o Village Kaitholi, Sultanpur, Police Station - Kotwali, Sultanpur, District Sultanpur (Uttar Pradesh).

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Civil Line Bilaspur, District Bilaspur (C.G.).

---- Respondent

For Applicant	: Shri Nimesh Jha, Advocate.
For Respondent/State	: Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

06/01/2021

- 1) This is the First Bail Application filed under Section 439 of Code of Criminal Procedure, 1973 by the applicant for grant of bail as he is in custody since 22/10/2020 in connection with Crime No. 354/2020 registered at Police Station Civil Line Bilaspur, District Bilaspur (C.G.) for the offence under Section 376 of IPC.
- 2) Allegation against the applicant is that on 30/08/2018 at 08-09 PM he had forcible sexual intercourse with the prosecutrix on the pretext of marriage and thereafter also had physical relations with her at different places on the said promise. The applicant is also alleged to have made a video clip of their physical relation and was threatening to make it viral if he is not given Rs. 5 lakh and told the prosecutrix that he would marry her when the said demand of money is fulfilled. On report being lodged to the above effect, offence under the aforesaid section has 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 submits that the prosecutrix is a major lady, there is delay of almost 2 years in lodging the FIR, in fact she was a consenting party to the act of the applicant and as such no offence as alleged has been committed by the applicant, applicant is in jail since 22/10/2020, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, the present applicant be released on bail.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the fact that the prosecutrix was in contact with the applicant for about 3 years prior to the incident and was having physical relations with him since August 2018 continuously, FIR was lodged on 25/05/2020 and during this period the prosecutrix, a major lady visited several places with the applicant, no video clip has been seized from the applicant during investigation, the detention period of the applicant and fact that the trial is likely to take some time for disposal, without commenting anything on merits of the case, 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. He is directed to appear before the Trial Court on each and every date given to him by the said Court, till disposal of the trial.
- 7) It is made clear that the applicant shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stands cancelled without further reference to the Bench.

-Sd/-
(Gautam Chourdiya)
Judge