

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 9000 of 2020**

- Akash Sahu S/o Late Shri Bharat Lal Sahu aged about 24 years, Resident of Near Durga Temple, Chingrajpura P.S. Sarkanda Bilaspur (C.G.).

**---- Applicant****Versus**

- State Of Chhattisgarh Through: P. S. Sarkanda District- Bilaspur (C.G.).

**---- Respondent**


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| For Applicant        | : Shri T. K. Jha, Advocate       |
| For Respondent/State | : Ms. Shobha Shrivastava, P. L.  |
| For Objector         | : Shri K. P. S. Gandhi, Advocate |

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**Hon'ble Justice Shri Gautam Chourdiya****Order on Board****12/01/2021**

- 1) Heard
- 2) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 25.11.2020 in connection with Crime No. 990/2020 registered at Police Station Sarkanda, District- Bilaspur (C.G.) for the offence punishable under Sections 376 of Indian Penal Code.
- 3) The prosecution story in brief is that the prosecutrix lodged a written report to the effect that the applicant is known to her for the last five years. In the year 2015 the applicant contacted her through Facebook and thereafter obtained her mobile number from her friend and started sending messages and making call to her. It is further alleged that on 20.12.2015 at about 2.00pm applicant called the prosecutrix to his house and on pretext of marrying her had forcible sexual intercourse with her but subsequent he refused to marry her.
- 4) Learned counsel for the applicant submits that the applicant

has been falsely implicated in the crime in question. He also submits that in this case at the time of incident the prosecutrix was aged about 20 years a major girl she was having physical relationship with the present applicant for about 5 years. He further submits that the FIR lodged on 20.10.2020 i.e. after a long delay of 5 years as the incident happened on 20.12.2015. The applicant is in jail since 25.11.2020 and trial is likely to take some time for its final disposal. Learned counsel for the applicant has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of **Maheshwar Tigga Vs. The State of Jharkhand** passed in **Criminal Appeal No. 635 of 2020**. Therefore, the applicant be released on bail by this Court.

- 5) Learned counsel for the objector is present alongwith the prosecutrix and the prosecutrix vehemently opposes to grant of bail to the applicant.
- 6) On the other hand, learned counsel for the respondent/State opposes the bail application and submits that on false pretext of marriage the present applicant committed sexual intercourse with the prosecutrix therefore the learned trial Court rightly rejected the bail application.
- 7) Heard and perused the material available on record.
- 8) Considering the fact & circumstances of the case, the fact that prosecutrix and the applicant were having physical relation since 2015 and report was lodged only when the applicant refused to marry, the prosecutrix is a major lady, the fact that the present applicant is in jail since 25.11.2020, and trial is likely to take some time for its final disposal, the judgment relied by the counsel for the applicant, without commenting upon merits of the case the application is allowed. It is directed that in the event of the 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.

**Certified copy as per rules**

Sd/-  
**(Gautam Chourdiya)**  
**Judge**

Amita