

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8985 of 2020**

- Lakesh @ Lakeshwar, S/o Shri Birsingh Dhritlahre, aged about 25 Years, Resident of Village Khainda, Police Station Balod Bazar, District Baloda Bazar Bhatapara Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station City Kotwali, District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondent

For Applicant	Mr. C.R. Sahu, Advocate.
For State	Ms. Shubha Shrivastava, P.L.
For Objector	Mr. Sumit Jhawar, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

12/01/2021

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. 793/2020, registered at Police Station – City Kotwali, District Balodabazar-Bhathapara for the offence punishable under Sections 450, 376 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 17.11.2020 prosecutrix, aged about 29 years, was alone at her home and at about 12:30 pm when she came out from bathroom, at that time applicant came there, pressed her mouth with hand and took her inside the home by dragging her where he committed forcible

sexual intercourse with her. After hearing her hue and cry, her daughter came there and called her uncle and on seeing them the applicant fled from there. On report being lodged to the above effect, the aforesaid offence 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 married and well grown up lady of 29 years, she was the consenting party and no any injury was found on the body of the prosecutrix. He also submits that both applicant and prosecutrix were residing in the same village but no any independent witness has seen the incident. He further submits that the place where the offence is alleged to have been committed is densely populated residential area where crime cannot be committed easily by anyone. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 24.11.2020 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. Learned counsel for the Objector also opposes the bail application and submits that the prosecutrix was subjected to forcible sexual intercourse in her home and subsequently prompt FIR is lodged against the applicant and the incident was seen by the family members of the prosecutrix. Therefore, applicant may

not be released on bail.

6. Heard learned counsel for the parties and perused the case diary.
7. In this case, it is not disputed by both the counsels that the prosecutrix and applicant were living in the same village and the house of the prosecutrix was in the densely populated area. During investigation, no independent witness was examined by the Investigating Officer, only four witnesses were examined in this case i.e. prosecutrix, her husband- Jitendra, brother-in-law- Krishna and daughter- Vasni. No visible injury was found on the body of the prosecutrix. Prosecutrix is a married and well grown up lady of 29 years and incident happened in the home of the prosecutrix and according to the map, the houses of Santosh and Mani are situated in front of home of the prosecutrix but none of the above neighbours was examined.
8. In the totality of facts and circumstances of the case, the nature of allegations, the detention period of the applicant, no injury was found on the body of the prosecutrix nor any neighbour was examined by Investigating Officer, only family members were examined, charge sheet has already been filed, the fact the applicant has no criminal antecedent as admitted by both the counsels and that conclusion of trial may take some time, 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

Akhilesh