

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9107 of 2020**

- Arjun Beck, S/o Sobhran Beck, aged about 20 Years, Caste Uraon, R/o Village Kudar, Baswar, Police Chowki Kedma, P.S. Udaipur, Dist. Surguja (Chhattisgarh).

---Applicant

Versus

- State of Chhattisgarh, Through the Station House Officer, Police Chowki Kedma, P.S. Udaipur, Dist. Surguja (Chhattisgarh).

----Non-applicant

For Applicant	Shri Jitendra Shrivastava, Advocate.
For State	Smt. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****15/02/2021**

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 31.10.2020 in connection with Crime No.145/2020 registered at Police Chowki Kedma, P.S. Udaipur, District Surguja, C.G. for the offence punishable under Sections 376(2)(n) & 313 of Indian Penal Code.
2. Case of the prosecution, in brief, is that prosecutrix lodged a report on 31.10.2020 against the applicant to the effect that prior to two years from the date of lodging of FIR, the applicant took the prosecutrix on the promise to marry her and committed sexual intercourse with her. The said act continued for a long period. In the month of August, 2020, applicant kept her with him

for about 10 days and committed sexual intercourse with her. When she got pregnant, applicant refused to marry her and also gave some medicine to her for miscarriage of pregnancy. On report being lodged to the above effect, the aforesaid offence have 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 also submits that there was love affair between the applicant and the prosecutrix and that she was a consenting party. He also submits that prosecutrix has lodged the FIR after the inordinate delay of 2 years and no proper explanation has been given by the prosecutrix regarding such delay in lodging the FIR. He submits that prosecutrix is a major girl and she accompanied the applicant on her own free will. During the said period, prosecutrix has not disclosed the incident to anyone and as per entire challan there is no evidence regarding causing miscarriage of pregnancy. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 31.10.2020 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. From the material available in the case diary, it is seen that the

applicant and the prosecutrix were having love affair prior to lodging of the FIR and there had been physical relations between them on number of occasions and this fact is also admitted by the prosecutrix in her statement under Section 164 of Cr.P.C. Thus, considering the over all facts and circumstances of the case, the nature and quality of evidence collected so far by the prosecution, the age of the applicant i.e. 20 years, the fact that the applicant and prosecutrix were having affair for two years, no proper/sufficient explanation given by the prosecutrix regarding two years delay in lodging the FIR, no medical report is there regarding any abortion, the detention period of the applicant and the fact that charge sheet has already been filed, in particular the fact that there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial may take some time, without expressing any opinion 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