

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8247 of 2021**

- Rakesh @ Deepak Pandey, S/o Sushil Kumar Pandey, aged about 24 Years, R/o Village Navrangpur, Police Station Lormi, Tahsil and District Mungeli, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Kawardha, District Kabirdham, Chhattisgarh.

----Non-applicant

For Applicant	Shri Dharmesh Shrivastava, Advocate.
For State	Shri Rahim Ubwani, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

11/11/2021

1. First bail application preferred by the applicant was dismissed as withdrawn vide order dated 22.06.2021 passed in MCRC No. 2645 of 2021.
2. The applicant has preferred this second bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.188/2021 registered at Police Station Kawardha, District Kabirdham, C.G. for the offence punishable under Sections 376(2)(n), 294, 323, 506 & 384 of Indian Penal Code.
3. As per the prosecution case, the applicant contacted the prosecutrix through mobile and threatened her of defaming in the society. On 02.02.2021, he called the prosecutrix and took her to his house where he committed forcible sexual intercourse with her. It is further alleged

that the applicant on the threat of making her photographs viral, subjected her to frequent forcible sexual intercourse and whenever she refused he abused her filthily and beat her with hands and fists. The applicant has also obtained Rs.5,000/- from the prosecutrix by blackmailing her. On report being lodged to the above effect, the aforesaid offence have been registered against the applicant.

4. 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. In these circumstances, *prima facie*, no offence can be made out against the applicant. He is in custody since 18.03.2021, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Prosecutrix appeared along with her grand-mother through video conferencing with the help of DLSA, Kabirdham and duly identified by the DLSA Authority. Prosecutrix submits that she has no objection to release of the applicant on bail.
7. Heard learned counsel for the parties.
8. Considering the facts and circumstances of the case, the nature of allegation against the applicant, the deposition of the prosecutrix recorded before the trial Court, the fact that the prosecutrix has raised no objection to release of the applicant on bail, charge sheet has

already been filed, the detention period of the applicant, who is 24 years old, the applicant has no criminal antecedent and there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and 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 to release the applicant on bail. Accordingly, the bail application is allowed. It is directed that in the event of applicant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- 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 strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-
Gautam Chourdiya
Judge