

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8539 of 2021

1. Bihari Lal Mahilange S/o Shri Mahettar Lal Mahilange, Aged About 23 Years, R/o Village Junapara, Sendripali, Kerakacchar, Police Station Kartala And District Korba (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through S.H.O Of The Out Post Jobi, Police Station Kharsia, District Raigarh (C.G.).

---- Non-Applicant

For Applicant : Mr. Abhishek Saraf, Advocate.

For Non-Applicant/State : Mr. Priyanshu Gupta, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

29/11/2021

- 1) This is the First Bail Application filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail as he is arrested on 28/08/2021 in connection with Crime No. 523/2021 registered at Out Post Jobi, Police Station Kharsia, District Raigarh (C.G.) for the offence under Sections 363, 366 & 376 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
- 2) Allegation against the present applicant is that he eloped with the prosecutrix, a minor girl and had physical relations with her repeatedly on the pretext of marriage. On written report being lodged to the above effect, aforesaid offence has been registered against the accused.
- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He submits that the prosecutrix has been examined before the Trial Court and has not supported the prosecution case. He submits that there is

no apprehension of the applicant tampering with the evidence or absconding. He also submits that the applicant is in jail since 28/08/2021, charge-sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, the applicant be released on bail.

- 4) On the other hand, learned counsel for the State opposes the bail application.
- 5) Prosecutrix alongwith her parents appeared before this Court through video conferencing with the aid of DLSA, Raigarh and raised **no objection** to release of the applicant on bail.
- 6) I have heard learned Counsel for the parties
- 7) Considering the facts and circumstances of the case, the evidence of the prosecutrix recorded before the Trial Court where she stated herself to be 19 years and that no forcible sexual intercourse was committed by the applicant with her, she did not support the prosecution case and turned hostile, no objection raised by the prosecutrix and her parents to release of the applicant on bail, the detention period of the applicant who is 23 years old, charge sheet has already been filed, the fact that there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial may take some time, the application is **allowed**. It is directed that in the event of the applicant executing a personal **bond** for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- 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,
 - 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 Govt./State Govt./Local Authority,
- v. he shall not involve himself in any offence of similar nature in future.

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**

Chandrakant