

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9294 of 2020

- Gopinath Nagesh S/o Tekram Nagesh Aged About 23 Years R/o Kumhadaikala, Police Station And Tahsil Devbhog, District Gariyaband Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Devbhog, District Gariyaband Chhattisgarh

--Non-Applicant

For Applicant	:	Shri Shivendu Pandya, Advocate
For Non-Applicant/State	:	Shri Srikant Kaushik, P.L.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

22/02/2021

1. The applicant has preferred this first bail application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 7.11.2020 in connection with Crime No.166/2020, registered at Police Station- Devbhog, District -Gariyaband(CG) for the offence punishable under Sections 376(2)(n) and 450 of the IPC.
2. Case of the prosecution is that the prosecutrix has lodged a report on 7.11.2020 that on the pretext of marriage, the applicant maintained physical relations with her since last 2 months and thereafter he refused to marry. A report was lodged and the applicant was taken into custody.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question and he has not committed any offence. He submits that the prosecutrix and the applicant were in love affair and on account of some dispute, the prosecutrix has lodged the report. He submits that the prosecutrix is a major lady and she was a consenting party and the applicant is ready to marry her. He submits that the applicant is in jail since

7.11.2020 and conclusion of trial is likely to take some time, therefore, the applicant may be released on bail by this Court.

4. On the other hand, learned counsel for the Non-Applicant/State opposes the bail application.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and further considering the statements of the prosecutrix recorded under Section 161 and 164 of the Cr.P.C.; the prosecutrix and the applicant were in love affair and they had physical relations on the pretext of marriage; as stated by learned counsel for the applicant, the applicant is ready to marry the prosecutrix; and conclusion of trial may take some time, this Court is of the opinion that present is a fit case for grant of bail to the applicant. Accordingly, the application is allowed.
6. 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:-
 7. (a) 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.
 - (b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - (c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
 - (d) he shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to this Court.
8. It is made clear that if the applicant does not marry the prosecutrix after release on bail, the prosecutrix shall be at liberty to move an application for cancellation of his bail.

Sd/
(Gautam Chourdiya)
Judge