

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9049 of 2021

1. Kamlesh Dubey S/o Gourishankar Dubey, Aged About 43 Years, R/o Village Panagar, P.S. Pipat, District Chatarpur (M.P.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Police Station Kansabel, Tehsil Kansabel, District Jashpur (C.G.).

---- Non-Applicant

For Applicant : Mr. Anshul Tiwari, Advocate.

For Non-Applicant/State : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

14/12/2021

- 1) This is the **Second Bail Application** filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. The First Bail Application i.e. MCRC 3498/2021 was dismissed as withdrawn on 20/07/2021.
- 2) The applicant is arrested on 09/05/2021 in connection with Crime No. 57/2021 registered at Police Station Kansabel, Tehsil Kansabel, District Jashpur (C.G.) for the offence under Sections 386, 370(2), 376, 376(2)(n), 385, 506 & 342 read with section 34 of Indian Penal Code.
- 3) As per prosecution case, co-accused Komal Ahirwar who is brother-in-law in relation of the prosecutrix, took the prosecutrix by Train to his village and kept her in his house for 03 days. Co-accused Komal Ahirwar insisting for marrying the prosecutrix with son of the applicant Kamlesh Dubey. Applicant also used to visit the house of co-accused Komal Ahirwar for the purpose of marrying the prosecutrix with his son co-accused Amitabh Dubey. It is further alleged that Komal Ahirwar forcibly sold the

prosecutrix to applicant Kamlesh Dubey for Rs. 1 Lakh and thereafter Komal Ahirwar and applicant forcibly got certain notarized document prepared regarding marriage of Amitabh Dubey with the prosecutrix and thereafter Kamlesh Dubey and Amitabh Dubey took the prosecutrix to their house at village Khatoura where the elder brother of Amitabh Dubey namely Krishan Gopal (co-accused) snatched away the mobile of the prosecutrix and locked her in the house. Co-accused Amitabh Dubey committed forcible sexual intercourse with the prosecutrix. Somehow the prosecutrix called her mother through the mobile of Amitabh Dubey and informed her about the incident, upon which she was recovered from the house of Amitabh Dubey on 07/05/2021 by the Police.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He submits that the prosecutrix has turned hostile and 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 09/05/2021, charge-sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, the applicant be released on bail.
- 5) On the other hand, learned counsel for the State opposes the bail application.
- 6) I have heard learned Counsel for the parties
- 7) Considering the facts and circumstances of the case, looking to the evidence of PW-01 and PW-02 (Annexure A-2), nature of allegation against the present applicant, the detention period of the applicant who is 43 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