

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9535 of 2020**

- Sushil Bada S/o Gopal Ram, Aged About 33 Years R/o Sura, Police Station Sitapur, Tahsil Sitapur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through - Station House Officer, Police Station Mahila Thana, Ambikapur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

For Applicant	:	Mr. Kishore Narayan, Advocate.
For State	:	Mr. Vaibhav Singh, Panel Lawyer
For Objector	:	Mr. Yogeshwar Sharma, Advocate

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****5-2-2021**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as he is in jail since 5-12-2020 in connection with Crime No. 49 of 2020 registered at Police Station Mahila Thana,, Ambikapur, District Surguja (CG) for the offence punishable under Sections 376(2)(n) and 313 of IPC.
2. Allegation against the present applicant is that the applicant on the pretext of marriage committed sexual intercourse with prosecutrix repeatedly and thereafter he refused to marry her, thereby the aforesaid offence has been committed.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case, applicant and prosecutrix had love affair with each other for more than eight years, prosecutrix is a well grown up lady aged about 32 years, she was a consenting party. He would further submit that the FIR was lodged by the prosecutrix with an inordinate delay on 4-12-2020 , charge sheet has been filed, he is in jail since 5-12-2020 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. Prosecutrix is present before this court along with her Advocate and submits that she has no any objection to the grant of bail to the applicant.
6. I have heard learned counsel for the parties and perused the case diary.
7. Considering the facts and circumstances of the case, the fact that the applicant and prosecutrix were having physical relation for more than eight years, prosecutrix is a major lady aged about 32 years, FIR was lodged after eight years of the date of incident and further considering the no objection by the prosecutrix, detention period of the applicant,, charge sheet has been filed, and that conclusion of trial may take some time, without commenting anything on merits of the case, I am of the opinion

that it is a fit case to grant bail to the applicant.

8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his 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 appear before the trial Court on each and every date given by the said trial court, till disposal of the trial. The applicant is being granted 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

Raju