

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 136 of 2021**

- Radhe Kanwat S/o Rambadan Kanwat Aged About 35 Years
R/o Village Thantpathar, P.S. Biharpur, Tahsil Odagi District
Surajpur Chhattisgarh. **--- Applicant**

Versus

- State of Chhattisgarh Through Police Station Chandani District
Surajpur Chhattisgarh., **--- Non-applicant**

For Applicant : Mr. Sunil Tripathi, Advocate.

For State : Mr. Sudhir Sahu, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****11-02-2021**

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 24-10-2020 in connection with Crime No. 40 of 2020 registered at Police Station Chandani, District Surajpur (CG) for the offence punishable under Sections 376(2)(n), 450 and 506 (B) of IPC.
2. The case of the prosecution, in brief, is that on account of absconding of the husband of the prosecutrix, applicant frequently visited the house of prosecutrix and committed sexual intercourse with 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, prosecutrix is a well grown up woman aged 35 years, prior to lodging of FIR i.e., on 23-10-2020, she was having physical relation with the applicant for the last five years and during that time she did not lodge any report against him. He would further submit that prior to 23-10-2020, on 20-10-2020 applicant committed sexual intercourse with prosecutrix, but she did not disclose the same to her family members and on 23-10-2020 when the applicant tried to commit sexual intercourse with prosecutrix, at that time her husband entered into his house and caught the applicant, she lodged FIR against the applicant. He would further submit that charge sheet has been filed, he is in jail since 24-10-2020, 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. I have heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the fact that the prosecutrix is a well grown up woman aged about 35 years and as per her version she was physical relation with the applicant for the last five years prior to lodging of FIR, conduct of the prosecutrix, looking to the inordinate delay in lodging FIR for

which no explanation has been given, applicant was in custody since 24-3-2020, charge-sheet has been filed and there is no likelihood of the applicant tampering with evidence of absconding 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.

7. 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,
- 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, and
- iv. He shall not involve himself in any offence of similar nature in future.

Sd/-
(Gautam Chourdiya)

Judge

Raju