

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 9373 of 2021**

- Gopichand Nishad, S/o Chaitram Nishad, Aged About 25 Years, Resident of Village- Badaod, Tahsil- Kurud, P.S. Kurud, District- Dhamtari (C.G.). **---- Applicant**

**Versus**

- State of Chhattisgarh, Through- Officer-In-Charge of Police Station- Kurud, District- Dhamtari (C.G.). **---- Respondent**

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| For Applicant        | : Shri R.S. Patel and Shri Malay Jain,<br>Advocates |
| For Respondent/State | : Shri Rahim Ubwani, Panel Lawyer                   |

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**Hon'ble Shri Justice Gautam Chourdiya**

**Order on Board**

**13.12.2021**

Heard.

- 1) The first bail application of the applicant filed under Section 439 of CrPC was dismissed as withdrawn by this Court vide order dated 03.12.2020 passed in MCRC No. 6598 of 2020.
- 2) The applicant has preferred this Second Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 08.02.2020 in connection with Crime No. 79/2020, registered at Police Station- Kurud, District- Dhamtari (C.G.) for the offence punishable under Sections 457, 506 and 376 of IPC.
- 3) Allegation against the applicant is that on 07.02.2020 at about 11.30 pm at village Bagoud police station Kurud, Dhamtari, committed house tress pass, entered house of the prosecutrix, gave her threat to life, forcibly taken her from her house to *dom* of the village and committed forcible sexual intercourse with her.
- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that prosecutrix and her parents did not support the

prosecution case and they have turned hostile. The applicant has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding. The applicant is in jail since 08.02.2020 and charge-sheet has already been filed and trial is likely to take some time for disposal. Therefore, the applicant be released on bail by this Court.

- 5) On the other hand, learned counsel for the Respondent/State opposes the bail application.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, as per Annexure A/4 evidence of the prosecutrix PW/1, PW/2, mother of the prosecutrix & PW/3, father of the prosecutrix, they have not supported the prosecution case and turned hostile, charge-sheet has already been filed, the detention period of the applicant, who is 25 years old and the fact that the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 7) 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/- each to the satisfaction of the concerned trial Court, he shall be released on bail, on 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 strictly follow the COVID-19 protocol issued by the Central Government/State Government/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**

Nadim