

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.3758 of 2015

Moh. Naushad Alam @ Msku, S/o Moh. Ekram, aged about 19 years, R/o Village Dohna, Tahsil & P.S. Shankergargh, District Balrampur-Ramanujganj (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Shankergargh, District Balrampur-Ramanujganj (C.G.)

---- Non-applicant

For Applicant:	Mr. A.K. Yadav, Advocate.
For Non-applicant:	Mr. Suvigya Awasthi, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/08/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.11/2014 (Special ST No.41/2014 pending in the Court of Special Judge (Atrocities), Ambikapur), registered at Police Station Shankergargh, Distt. Balrampur-Ramanujganj, for the offence punishable under Sections 376D of the IPC; 4 of the Protection of Children from Sexual Offences Act, 2012; 3 (1) (xii) and 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that the applicant and one another co-accused person have kidnapped the prosecutrix, aged about 14 years, and subjected her to gang rape.
3. I have heard learned counsel for the parties and perused the case diary.
4. Learned counsel for the applicant submits that the applicant has not committed any offence, he has been falsely implicated in the case and he is

in custody since 30-1-2014. He further submits that there is delay of seven days in lodging the FIR. Father and mother of the prosecutrix have been examined in the trial Court and they have not supported the case of the prosecution. Medical evidence is also not supporting the prosecution case and there is no external or internal injury on the body of the prosecutrix as such, the applicant is in jail for a fairly long time, therefore, he be released on bail.

5. On the other hand, learned State counsel opposes the application.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, the manner in which the minor prosecutrix who has merely completed 14 years of her age and that too of Scheduled Tribe was subjected to gang rape by the applicant and co-accused person, some witnesses including doctors are yet to be examined, that it is an extremely serious case subjecting the minor to gang rape by the present applicant and prima facie there is ample material evidence against the applicant, I am not inclined to grant regular bail to the applicant. The application is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge