

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C No.4273 of 2018

Topesh Kumar Shri Dharam Lal Sahu Aged About 19 Years R/o Village Nagarda, Police Station Bilaigarh, District Baloda Bazar- Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station- Bilaigarh, District- Baloda Bazar- Bhatapara, Chhattisgarh.

---- Non-Applicant

For Applicant:	Shri CR Sahu, Advocate.
For State/Non-Applicant:	Shri Anant Bajpai, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

29.08.2018

1. The Applicant has filed this application under Section 439 Code of Criminal Procedure for grant of regular bail as he is in custody since 17.03.2018 in connection with Crime No.116/2018 registered at Police Station –Bilaigarh, District Baloda Bazar Bhatapara (CG) for the offences punishable under Sections 341, 294, 506, 354, 384 and 323/34 IPC and also under Section 8 of Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution in brief is that on 20.2.2018, at 2.30 p.m, while the prosecutrix was going to village Soniadih, en route, she met her cousin (mithana Bhai) Rahul and that taking lift from him, was going to the village on his motorcycle. When they reached near village Gorba, accused/Applicant Topesh Kumar and other co-accused namely Bhupendra Sahu stopped them and started misbehaving with them by snatching the key of the vehicle as also the hair of the prosecutrix. Further case of the

prosecution is that after sometime, one Ram Kumar, a villager came and intercepted the matter and at his instance, he (Ram Kumar) and the Applicant Topesh both have taken photographs of the prosecutrix and her cousin Rahul and thereafter, the said Ram Kumar has sent the same to one Vishnu Prasad Kaiwartya through whatsapp, who in turn, had circulated the same to other persons. It is alleged further that after sometime, co-accused Bhupendra demanded Rs.10,000/- by threatening the prosecutrix and her cousin brother Rahul. On the basis of the said incident, a written complaint was lodged by the prosecutrix on 16.3.2018 and based upon which, the aforesaid offences have been registered at the concerned police station against the Applicant and other accused persons.

3. Learned Counsel for the Applicant would submit that the Applicant has been falsely implicated in connection with the aforesaid crime. According to Shri Sahu, the offences alleged to have been committed were on 20.2.2018, but the written complaint was lodged by the prosecutrix only on 16.3.2018 which goes to show that it is an after thought. He submits further that one of the co-accused namely Vishnu Prasad Kaiwartya has already been granted anticipatory bail and therefore, the present Applicant may also be enlarged on bail.

4. On the other hand, learned counsel for the State opposed the prayer for bail by submitting *inter alia* that Topesh Kumar, the present Applicant along with other co-accused person namely Bhupendra Sahu has intentionally stopped the prosecutrix when she was going along with her cousin Rahul to village Soniadih and misbehaved with them and with the help of others, took photographs without their consent and forwarded the same to co-accused namely Vishnu Kaiwartya, therefore, the Applicant is not entitled to be

enlarged on bail.

5. I have heard learned Counsel for the parties and perused the entire case diary carefully.

6. Having considered the facts and circumstances of the case and that by taking into consideration the fact that Topesh Kumar along with other co-accused person appear to have deliberately stopped the prosecutrix and her cousin Rahul and misbehaved with them by snatching the key of the motorcycle and also the hair of the prosecutrix, I am not inclined to release the Applicant on bail.

7. Accordingly, the bail application is rejected.

Sd/-
(Sanjay Agrawal)
Judge

Priya