

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 3820 of 2019

- Mukesh Kumar Sen (Nai) S/o Ramsahodar Sen Aged About 23 Years
R/o Pratapganj Bhawaraha Plot, Police Station- Hanumana, District-
Rewa, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police
Station- Chandni, District- Surajpur, Chhattisgarh

---- Non-applicant

For Applicant	: Mr. Anil Gulati, Advocate.
For Non-applicant/State	: Mr. Neeraj Kumar Mehta, Panel Lawyer.
For Objector	: Mr. Sangeet K. Kushwaha, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

23-09-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 18.03.2019 in connection with Crime No.14/2019, registered at Police Station– Chandni, District- Surajpur, Chhattisgarh for offence punishable under Sections 363, 366, 376(१), 376(3) of I.P.C. and Sections 4 and 6 of POCSO Act.
2. It is submitted by learned counsel for the applicant that although the prosecutrix has stated against this applicant in her statement under Section 161 of Cr.P.C. but then she has omitted to make any statement regarding the commission of offence of rape with her in her statement under Section 164 of Cr.P.C. Therefore, it is prayed that he may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that in the statement, the prosecutrix has categorically

stated regarding the commission of offence of rape by this applicant. Therefore, he is not entitled for grant of bail.

4. Learned counsel for the objector adopts the arguments made by the learned State counsel and submits that prosecutrix was a minor on the date of incidence and since there is a first statement made by her against this applicant, therefore, he is not entitled for grant of bail.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, on the date of incident, the prosecutrix was abducted by co-accused Shrawan Kumar and then with the help of this applicant, she was taken to a village where while staying in a house, it is alleged that this applicant committed the offence of rape with her and subsequently other co-accused Shrawan Kumar also committed the offence of rape with her by taking her to a forest.
7. On perusing the statement of the prosecutrix under Section 164 of Cr.P.C., it is found that she has omitted to make a statement regarding offence of rape against this applicant before the Judicial Magistrate First Class, therefore on the basis of this development, I feel inclined to allow this application.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
9. Certified copy as per rules.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge