

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4069 of 2020**

- Kamal Baghel @ Kamlu S/o Gujali Baghel @ Pandru Aged About 30 Years R/o Harampara Geedam, District Dantewada, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Aarakshi Kendra Kodenaar, District Bastar, Chhattisgarh

---- Respondent

For Applicant	Mr. Vikash Shrivatava, Advocate
For Respondent /State	Ms. Fouzia Mirza, Additional Advocate General

Proceedings through Video Conferencing**SB: Hon'ble Mr. Justice Prashant Kumar Mishra****Order On Board****28/8/2020**

1. Heard.
2. This is an application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant, who has been arrested in connection with Crime No.25/2020 registered at Police Station Aarakshi Kendra Kodenaar, District Bastar (CG) for the offence punishable under Sections 506, 342 and 376 of the IPC.
3. As per the prosecution allegation, the prosecutrix was walking

from village Harampara Geedam to Kilepal at 4:30 a.m. on 29.03.2020 and reached near Bastanar at 6:00 a.m., where the applicant persuaded her to walk towards a hillock and thereafter, he committed forcible sexual intercourse against her for two days. During this period, the applicant and the prosecutrix stayed together over the hillock .

4. Learned counsel for the applicant submits that the prosecution case is improbable and concocted. A false case has been registered due to village rivalry and there is delay in lodging the FIR.
5. On the other hand, learned counsel for the State would oppose the prayer for grant of bail on submission that not only the present applicant but one co-accused Lachinder has also committed rape on the prosecutrix and thus, the present is a case of gang rape.
6. Admittedly, in the FIR and in her first diary statement, the prosecutrix did not name Lachinder. In her second diary statement recorded on 25.6.2020, she impleaded Lachinder as the person, who also committed rape upon her at the same time along with the applicant.
7. There is delay of four days in lodging the FIR, inasmuch as, she has reached the village on 1.4.2020 but lodged the FIR on 4.4.2020. The reason offered for delay is due to the threat extended by the applicant. However, this appears to be unnatural because the prosecutrix was walking alone at 4:30

a.m. on the date of the incident and accompanied the applicant to a hill without any protest or offering resistance. The prosecutrix is a grown up lady, aged about 32 years. Lachinder has already been released on bail by the trial Court.

8. The applicant is in jail since 4.5.2020 and the charge sheet has already been filed.

9. Considering all the relevant aspects of the matter, this Court is inclined to release the applicant on regular bail.

10. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond for a sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

11. Certified copy as per rules. Sd/-

(Prashant Kumar Mishra)

Judge

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